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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

Share Insurance and Appendix

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: This interim rule simplifies NCUA's share insurance regulations on testamentary accounts, frequently referred to as revocable trust accounts or payable on death accounts, and joint ownership accounts. These amendments are similar to those adopted by the Federal Deposit Insurance Corporation (FDIC) for its deposit insurance regulations. The first amendment increases available share insurance coverage on payable on death accounts by adding parents and siblings to the list of relatives for whom a member may receive separate coverage. The second amendment simplifies the method for determining the amount of insured funds a person may have in one or more joint accounts by eliminating the first of two steps used to make such determinations. These amendments are adopted as an interim rule to provide parity between NCUA and FDIC insurance regulations on commonly held accounts, and to aid the public and prevent confusion over the amount of federal insurance available on those accounts.

DATES: Effective April 22, 1999. Comments must be received on or before July 15, 1999.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Deputy General Counsel, at the above address, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

In accordance with NCUA's regulatory review process, at year end 1998, NCUA staff identified part 745 as one of the regulations in need of updating, clarification and simplification. Part 745 was included in NCUA's Semi-Annual Agenda of Regulations that will appear in the April 1999, Unified Agenda of Federal Regulatory and Deregulatory Actions published by the Regulatory Information Service Center, GSA. Work on this project is to begin in late summer. However, due to recent deposit insurance rule changes for joint accounts and revocable trust accounts adopted by the Board of Directors of the Federal Deposit Insurance Corporation (FDIC), the NCUA Board believes it is in the public interest to adopt similar changes for two basic reasons. First, the FDIC's recent action to simplify its rules and provide added protection for bank customers warrants similar action by the NCUA Board to maintain parity between the coverage provided by both federal programs. Both revocable trust accounts and joint accounts are types of accounts commonly used by members of the public for the future transfer of ownership of family assets without loss of control during the owner's life. Traditionally, the owners of these accounts have been afforded the same protection through similar Congressionally created federal insurance funds, whether the accounts are maintained in banks or credit unions.

Second, changes are needed to reduce, and hopefully avoid, confusion about the application of NCUA's insurance rules to these types of accounts, and also to avoid confusion regarding any differences between NCUA insurance on credit union accounts and FDIC insurance on similar accounts at bank and savings associations. The NCUA Board is aware that there is confusion, both on the part of credit union members and credit union employees about the current rules regarding these accounts. This confusion has been brought to the Board's attention through appeals filed under subpart B of part 745. It is especially apparent when family members open several different joint accounts, or joint owners use combinations of joint accounts and revocable trust accounts. The FDIC had noted that its previous joint account and payable on death account rules were frequently misunderstood by bank depositors. It also looked at surveys conducted by public interest research groups that showed that bank employees too shared depositors' confusion. The action taken by FDIC provides needed clarification and simplification for customers of its insured institutions. The same benefits are extended to credit unions and their members by the Board's adoption of this interim rule.

In order to expedite this process, the Board has chosen to make minimum changes to the existing language of its regulations and not a full scale rewrite or format revision at this time. Further, the NCUA Board has not attempted to duplicate the studies conducted by or reviewed by the FDIC prior to its adoption of the recent final rule. The Board recognizes that its payout experience on revocable trust and joint accounts has not been of the magnitude of that cited by the FDIC.

B. Current Rules

Testamentary Accounts (Revocable Trust Accounts)

These are accounts that evidence an intention on the part of the owner to pass funds on to one or more beneficiaries upon the owner's death. They include payable-on-death accounts (POD accounts), and tentative or ''Totten'' trust accounts. These accounts are insured separately from other accounts of the owner if the beneficiary is a spouse, child or grandchild. There can be more than one beneficiary, and if each beneficiary is either the spouse, a child or grandchild, the account will be insured up to $100,000 for each such beneficiary. For example, if an account is held by a husband ''in trust for'' his wife and three children, the account will be insured for $400,000. This coverage will be separate from any insurance the husband, wife or children may have on their own accounts. For these accounts, insurance is provided on a per beneficiary basis for the spouse,

child or grandchild. If, however, a credit union member names a parent or sibling as a beneficiary, a common practice particularly for single individuals, then the account will be added to the individual account of the member and insured up to $100,000. There is no per beneficiary protection in that case even though there is a close familial relationship.

As the FDIC noted, by adding parents and siblings to the list of family members who qualify as beneficiaries for additional coverage, most of the customers who misunderstand the current rules will be protected. The Board believes that same level of protection should be provided to credit union members and, therefore, has adopted a similar amendment. This interim rule also clarifies that the degree of kinship for named beneficiaries includes relationships through blood, adoption, or by virtue of remarriage. FDIC has a similar provision.

Joint Accounts

NCUA's current regulation does not expressly refer to a two step process in determining insurance coverage on joint accounts as did the FDIC's rule. However, where an individual had several joint accounts, some with different joint owners, insurance coverage was determined by applying two subsections. First, under subsection 745.8(d), joint accounts with the same combination of owners are aggregated and insured up to $100,000. Even though there is more than one account, if the owners are the same, the accounts are treated as one account. Then, under subsection 745.8(e), a person's interest in all joint accounts with different combinations of owners joint is aggregated and insured up to $100,000. Thus, NCUA followed the same type of two step process used by the FDIC

The application of this process results in certain inequities. If a person has ownership interests in several different joint accounts, each with a different combination of joint owners, his or her interest in each of those accounts will be added together and insured to $100,000. The same will be done for each of the other joint owners as well. If instead, that person has one or more joint accounts with the same combination of joint owners, the maximum insurance available to all of those joint owners combined will be limited to $100,000. Thus, in one instance, each joint owner's interest can be insured up to $100,000, while in the other, total coverage on the account is limited to $100,000, notwithstanding the amount of each of the joint owner's interest.

Through this interim final rule, the Board is taking the same approach to simplify coverage on joint accounts as did the FDIC. It will no longer be necessary to aggregate all joint accounts owned by the same combination of individuals. With this amendment, each person's interest in all qualifying joint accounts will be aggregated and insured to a maximum of $100,000. The rule also eliminates the signature requirement for share certificates, a matter that has presented problems in the past, and for accounts maintained by certain fiduciaries for joint owners as long as the credit union's records reflect that there are joint owners. FDIC has a similar provision.

C. Interim Rule—Amendments

For purposes of this interim rule, the Board has not changed the current format used in part 745. Instead, minor modifications have been made to keep the amendments simple while accomplishing the desired change. It is expected that more substantial changes to part 745 will be made when agency staff undertakes a more comprehensive review of all of its provisions and after receiving comments as a result of this request for comments.

1. Section 745.4

The title of this section has been changed from ''Testamentary Accounts'' to ''Revocable Trust Accounts,'' the section title the FDIC adopted when it issued uniform rules for banks and savings associations previously insured by the former Federal Savings and Loan Insurance Corporation (FSLIC). See 55 FR 20111 (May 15, 1990). This nomenclature will be more reflective of the types of accounts that members will be using in the future and that the Board anticipates will be addressed in subsequent action on part 745. Substantively, this interim rule extends insurance coverage by adding parents and siblings to the list of relatives who may be named as beneficiary on a revocable trust account and for whom per beneficiary insurance coverage will be provided. The rule also adds a new subsection (d) to define the degree of kinship for named beneficiaries to include relationships through blood, adoption, or by virtue of remarriage, such as a step-child or step-sister.

2. Section 745.8 Joint Accounts

This amendment adds language to subsection (a) to provide that a co-owner's interest in all joint accounts will be added together and insured up to a maximum of $100,000. It also removes subsections (d) and (e). These changes eliminate the two step process for determining insurance coverage on joint accounts. Language is also added to subsection (b) to eliminate the signature requirement for share certificates and accounts maintained for joint owners provided the credit union records reflect the nature of the accounts.

D. Request for Comments

This interim rule only affects those provisions in part 745 and the appendix that relate to joint accounts and revocable trust accounts. As noted above, the Board is not amending or proposing any specific amendments to other provisions of Part 745. Also, the Board is not adopting in this interim rule a change similar to that adopted by the FDIC regarding insurance coverage of accounts held by agents or fiduciaries. However, the Board is interested in comments on part 745 in its entirety, including style and format and suggestions for simplification or clarification. NCUA currently uses a separate appendix to provide examples of insurance coverage, whereas FDIC provides examples within some of the specific provisions of its rules. Is either format preferable, or should NCUA add an additional appendix with staff interpretations, similar to that used in part 707 for Truth in Savings?

When reviewing part 745, the Board suggests commenters look to the simplification of deposit insurance rules amendments adopted by the FDIC (63 FR 25750, May 11, 1998; 64 FR 15653, April 1, 1999). Many of those changes, with or without additional modification, may be appropriate for Board consideration. The Board invites comments on how to address insurance on living trusts, or the need for guidance on any account insurance related areas they may be unique to credit unions. Of particular importance are suggestions on ways to make the share insurance regulations more easily understandable to members and employees.

E. Effective Date

Under the Administrative Procedure Act, a substantive rule is to be published 30 days before its effective date unless it meets one of that Act's exceptions. The NCUA Board has determined that this interim rule falls within the ''good cause'' exception of that Act, 5 U.S.C. 553(d), and, therefore, it is made effective immediately upon publication in the **Federal Register**. ''Good cause'' exists because the rule benefits credit union members and employees by simplifying how to determine the amount of coverage available on commonly used accounts; it increases the amount of coverage that

is available for the benefit of credit union members; it does not prejudice credit union members or credit unions; and it provides immediate protection for members whose interests might otherwise be jeopardized if an insured credit union were to fail within the normal thirty day delayed effective date period.

Regulatory Procedures

Regulatory Flexibility Act

This interim final rule applies to all federally-insured credit unions but does not impose new reporting, recordkeeping or other compliance requirements on those institutions. Therefore, the Board has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This interim rule does not impose any paperwork requirements and, therefore, no information has been submitted to the Office of Management and Budget.

Executive Order 12612

Although this interim rule applies to federally-insured state-chartered credit unions, it has no affect on the regulation of those credit unions.

List of Subjects in 12 CFR Part 745

Credit unions, Pension plans, Share insurance, Trustee.

By the National Credit Union Administration Board, this 15th day of April, 1999.

Becky Baker,

Secretary, NCUA Board.

For the reasons stated in the preamble, NCUA amends 12 CFR chapter VII as follows:

PART 745—SHARE INSURANCE AND APPENDIX

1. The authority citation for part 745 is revised to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789.

2. Section 745.4 is revised to read as follows:

§ 745.4 Revocable trust accounts.

(a) For purposes of this part, the term ''revocable trust account'' includes a testamentary account, tentative or ''Totten'' trust account, ''payable-on-death'' account, or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary.

(b) If the named beneficiary of a revocable trust account is a spouse, child, grandchild, parent, brother or sister of the account owner, the account shall be insured up to $100,000 in the aggregate as to each such beneficiary, separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary.

(c) If the named beneficiary of a revocable trust account is other than the spouse, child, grandchild, parent, brother or sister of the account owner, the funds in such account shall be added to any individual accounts of the owner and insured up to $100,000 in the aggregate.

(d) For purposes of this section, the term ''child'' includes the biological, adopted or step-child of the owner; the term ''grandchild'' includes the biological, adopted or step-child of any of the owner's children; the term ''parent'' includes the biological, adoptive or step-parent of the owner; the term ''brother'' includes a full brother, half brother, brother through adoption or step-brother; and the term ''sister'' includes a full sister, half sister, sister through adoption or step-sister.

3. Section 745.8 is revised to read as follows:

§ 745.8 Joint ownership accounts.

(a) *Separate insurance coverage.* Qualifying joint accounts, whether owned as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be insured separately from accounts individually owned by any of the co-owners. The interest of a co-owner in all qualifying joint accounts shall be added together and the total for that co-owner shall be insured up to $100,000.

(b) *Qualifying joint accounts.* A joint account is a qualifying joint account if each of the co-owners has personally signed a membership or account signature card and has a right of withdrawal on the same basis as the other co-owners. The signature requirement does not apply to share certificates, or to any accounts maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more persons if the records of the credit union properly reflect that the account is so maintained.

(c) *Failure to qualify.* A joint account that does not meet the requirements for a qualifying joint account shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate. An account will not fail to qualify as a joint account if a joint owner is a minor and applicable state law limits or restricts a minor's withdrawal rights.

(d) *Nonmember joint owners.* A nonmember may become a joint owner with a member on a joint account with right of survivorship. The nonmember's interest in such accounts will be insured in the same manner as the member joint-owner's interest.

4. Part B of the Appendix to Part 745 is amended by revising the heading of Part B and first three sentences of the introductory paragraph to read as follows:

Appendix to Part 745—Examples of Insurance Coverage Afforded Accounts in Credit Unions Insured by the National Credit Union Share Insurance Fund

* * * * *

B. Revocable Trust Accounts

The term ''revocable trust account'' includes a testamentary account, tentative or ''Totten'' trust account, ''payable-on-death'' account, or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary. If the named beneficiary is a spouse, child, grandchild, parent, brother or sister (as defined in subsection 745.4(d)) of the owner, the funds in all such accounts are insured for the owner up to $100,000 in the aggregate as to each such beneficiary. If the beneficiary of such an account is other than the spouse, child, grandchild, parent, brother or sister of the owner, the funds in the account are, for insurance purposes, added to any other individual (single ownership) accounts of the owner and insured up to $100,000 in the aggregate. * * *

5. Part B of the Appendix to Part 745 is amended by revising Example 2 to read as follows:

* * * * *

B. Revocable Trust Accounts

* * * * *

Example 2

Question: Member H invests $100,000 in each of four ''payable-on-death'' accounts. Under the terms of each account contract, H has the right to withdraw any or all of the funds in the account at any time. Any funds remaining in the account at the time of H's death are to be paid to a named beneficiary. The respective beneficiaries of the four accounts are H's wife, his mother, his brother, and his nephew. H also holds an individual account containing $100,000. What is the insurance coverage?

Answer: The accounts payable on death to H's wife, mother and brother are each

separately insured to the $100,000 maximum (Sec. 745.4(b)). The account payable to H's nephew is added to H's individual account and insured to $100,000 in the aggregate, leaving $100,000 uninsured (Sec. 745.4(c)).

* * * * *

6. Part F of the Appendix to Part 745 is amended by removing the five introductory paragraphs and adding four introductory paragraphs in their place to read as follows:

* * * * *

F. Joint Accounts

The interest of a co-owner in all accounts held under any form of joint ownership valid under state law (whether as joint tenants with right of survivorship, tenants by the entireties, tenants in common, or by husband and wife as community property) is insured up to $100,000. This insurance is separate from that afforded individual accounts held by any of the co-owners.

An account is insured as a joint account only if each of the co-owners has personally signed a membership card or an account signature card and possesses the same withdrawal rights as the other co-owners. (The signature requirement does not apply to share certificates, or to any accounts maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more persons. However, the records of the credit union must show that the account is being maintained for joint owners. There is also another exception in the case of a minor discussed below.) An account owned jointly which does not qualify as a joint account for insurance purposes is insured as if owned by the named persons as individuals. In that case, the actual ownership interest in the account of each person is added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.

Any individual, including a minor, may be a co-owner of a joint account. Although, generally, each co-owner must have signed an account signature card and must have the same rights of withdrawal as other co-owners in order for the account to qualify for separate joint account insurance, there is an exception for minors. If state law limits or restricts a minor's withdrawal rights—for example, a minimum age requirement to make a withdrawal—the account will still be insured as a joint account.

The interests of a co-owner in all joint accounts that qualify for separate insurance coverage are insured up to the $100,000 maximum. For insurance purposes, the co-owners of any joint account are deemed to have equal interests in the account, except in the case of a tenancy in common. With a tenancy in common, equal interests are presumed unless otherwise stated on the records of the credit union.

7. Part F of the Appendix to Part 745 is amended by removing Example 6 and by revising Examples 1 through 5(b) to read as follows:

* * * * *

F. Joint Accounts

* * * * *

Example 1

Question: Members A and B maintain an account as joint tenants with right of survivorship and, in addition, each holds an individual account. Is each account separately insured?

Answer: If both A and B have signed the membership or signature card and possess equal withdrawal rights with respect to the joint funds, their interests in the joint account are separately insured from their interests in the individual accounts. (§ 745.8 (a) and (b).) If the joint account is represented by a share certificate, their individual signatures are not required for that account.

Example 2

Question: Members H and W, husband and wife, reside in a community property state. Each holds an individual account and, in addition, they hold a qualifying joint account. The funds in all three accounts consist of community property. Is each account separately insured?

Answer: Yes. An account in the individual name of a spouse will be insured up to $100,000 whether the funds consist of community property or separate property of the spouse. A joint account containing community property is separately insured. Thus, community property can be used for individual accounts in the name of each spouse and for a joint account in the name of both spouses. In this example, each individual account is insured up to $100,000 (§ 745.3(a)(1)), and the interests of both the husband and wife in the joint account are each insured up to $100,000 (§ 745.8(a)).

Example 3

Question: Two accounts of $100,000 each are held by a member husband and his wife under the following names: John Doe and Mary Doe, husband and wife, as joint tenants with right of survivorship. Mrs. John Doe and John Q. Doe (community property). How much insurance do the husband and wife have?

Answer: They have $200,000 of insurance. Both the husband and wife are deemed to have a one half interest ($50,000) in each account. (§ 745.2(c)(4).) The husband's interest in both accounts would be added together and insured for $100,000. The wife's insurance coverage would be determined the same way. (§ 745.8(a).)

Example 4

Question: The following accounts are held by members A, B and C, each of whom has personally executed signature cards for the accounts in which he has an interest. Each co-owner of a joint account possesses the necessary withdrawals rights.

1. A, as an individual—$100,000.
2. B, as an individual—$100,000.
3. C, as an individual—$100,000.
4. A and B, as joint tenants w/r/o survivorship—$90,000.
5. A and C, as joint tenants w/r/o survivorship—$90,000.
6. B and C, as joint tenants w/r/o survivorship—$90,000.
7. A, B and C, as joint tenants w/r/o survivorship—$90,000.

What is the insurance coverage?

Answer: Accounts numbered 1, 2 and 3 are each separately insured for $100,000 as individual accounts held by A, B and C, respectively (§ 745.3(a)(1)). The interest of the co-owners of each joint account are deemed equal for insurance purposes (§ 745.2(c)(4)). A's interest in accounts numbered 4, 5, and 7 are added together for insurance purposes (§ 745.8(e)). Thus, A has an interest of $45,000 in account No. 4, $45,000 in account No. 5 and $30,000 in account No. 7, for a total joint account interest of $120,000, of which $100,000 is insured. The interest of B and C are similarly insured.

Example 5(a)

Question: A, B and C hold accounts as set forth in Example 4. Members A and B are husband and wife; C, their minor child, has failed to sign the signature card for Account No. 7. In Account No. 5, according to the terms of the account, C cannot make a withdrawal without A's written consent. (This is not a limitation imposed under state law.) In Account No. 6, the signatures of both B and C are required for withdrawal. A has provided all of the funds for Accounts numbered 5 and 7 and under state law has the entire actual ownership interest in these two accounts. What is the insurance coverage?

Answer: If any of the co-owners of a joint account have failed to meet any of the joint account requirements, the account is not a qualifying joint account. Instead, the account is treated as if it consisted of commingled individual accounts of each of the co-owners in accordance with his or her actual ownership interest in the funds, as determined under applicable state law. (§ 745.8(c).)

Account No. 5 is not a qualifying joint account because C does not have equal withdrawal rights with A. Based on the terms of the account, C can only make a withdrawal if he has A's written consent. Account No. 7 is not a qualifying joint account because C did not personally sign the signature card. Therefore, all of the funds in Accounts 5 and 7 are treated as individually owned by A and added to A's individual account, Account No. 1. For insurance purposes then, A has $280,000 in one individual account that is insured for $100,000, leaving $180,000 uninsured.

Account 6 is a qualifying joint account for insurance purposes since each co-owner has the right to withdraw funds on the same basis. Account 4 is also a qualifying joint account. A's interest in Account 4 is insured for $45,000. B's interest of $45,000 in Account 4 is added to her interest of $45,000 in Account 6 and insured for $90,000. C's interest in Account 6 is insured for $45,000.

Example 5(b)

Question: Assume the same accounts as Example 5(a) except that, on Account No. 5, C's right to make a withdrawal is limited by state law which precludes a minor from making a withdrawal without the co-owner's written consent. What is the insurance coverage?

Answer: In this situation, Accounts 4, 5, and 6 all qualify as joint accounts. A, B, and

C will each have $90,000 of insured funds based on: A's interest in Account 4 ($45,000) and 5 ($45,000), B's interest in Accounts 4 ($45,000) and 6 ($45,000), and C's interest in Accounts 5 ($45,000) and 6 ($45,000). As in Example 5(a), Account No. 7 does not qualify as a joint account and would be added to A's individual account for insurance purposes.

* * * * *

[FR Doc. 99–9930 Filed 4–21–99; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–44–AD; Amendment 39–11135; AD 99–09–03]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires a one-time inspection of the wiring and wire bundles of the aft main avionics rack (MAR) to determine if the wires are damaged, or riding or chafing on structure, clamps, braces, standoffs, or clips, and to detect damaged or out of alignment rubber cushions inserts of the wiring clamps; and corrective actions, if necessary. This amendment is prompted by an incident in which the automatic and manual cargo door test in the cockpit was inoperative during dispatch of the airplane, due to the wiring of the MAR chafing against clamps as a result of the wire bundles being installed improperly during production of the airplane. The actions specified in this AD are intended to ensure that the wires that route from the main wire bundles to the MAR and associated brackets, clamps, braces, standoffs, and clips are installed properly. Improper installation of such wiring and structure could cause chafing of the wire/wire bundles, which could result in electrical arcing, smoke, and possible fire in the MAR.

DATES: Effective May 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–44–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which the automatic and manual cargo door test in the cockpit was inoperative. This incident occurred on a McDonnell Douglas Model MD–11 series airplane during dispatch.

Investigation revealed the insulation of a wire located on the aft main avionics rack (MAR) was worn through, and that the wire shorted to a coax cable clamp. The wires that route from the main wire bundles to the MAR also were found contacting clamps at other locations of the MAR. The cause of such chafing has been attributed to improper installation of the wire bundles in the MAR during production of the airplane. (This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.)

Improper installation of the wires that route from the main wire bundles to the MAR or improper installation of associated brackets, clamps, braces, standoffs, or clips could cause chafing of the wire/wire bundles, which could result in electrical arcing, smoke, and possible fire in the MAR.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A146, dated February 1, 1999. The alert service bulletin describes procedures for a one-time inspection of the wiring and wire bundles of the aft MAR to determine if the wires are damaged, or riding or chafing on structure, clamps, braces, standoffs, or clips, and to detect damaged or out of alignment rubber cushions inserts of the wiring clamps; and corrective actions, if necessary. The corrective actions include repairing damaged wiring; routing and tying all wires/wire bundles so that they are not in contact with adjacent wire bundles, clamps, or structure; installing silicone rubber coated glass cloth wrapping on wiring; and inspecting all brackets, clamps, braces, standoffs, and clips to make sure they are not bent or twisted and come in contact with wires/wire bundles.

Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to ensure that the wires that route from the main wire bundles to the MAR and associated brackets, clamps, braces, standoffs, and clips are installed properly. Improper installation of such wiring and structure could cause chafing of the wire/wire bundles, which could result in electrical arcing, smoke, and possible fire in the MAR. This AD requires accomplishment of the actions specified in the alert service bulletin described previously, except as

discussed below. This AD also requires that operators submit a report of the inspection results to the FAA.

Differences Between the AD and the Referenced Alert Service Bulletin

The alert service bulletin specifies the following corrective actions for certain conditions: realigning rubber cushion and replacing clamp. However, the alert service bulletin does not provide any instructions for accomplishment of those procedures or reference other service information. The FAA has verified with the manufacturer that the appropriate source of service information for accomplishment of those procedures is Chapter 20–30–01 of McDonnell Douglas MD–11 Airplane Maintenance Manual (AMM), dated February 1, 1999. Therefore, this AD requires that those actions be accomplished in accordance with the AMM.

Operators should note that, although the alert service bulletin recommends accomplishing the one-time inspection within 6 months (after the release of the service bulletin), the FAA has determined that an interval of 6 months would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (two work hours). In light of all of these factors, the FAA finds a 60-day compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–44–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–03 McDonnell Douglas: Amendment 39–11135. Docket 99–NM–44–AD.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0464 inclusive, 466 through 0552 inclusive, 0554 through 0596 inclusive, and 0597 through 0628 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the wires that route from the main wire bundles to the MAR and associated brackets, clamps, braces, standoffs, and clips are installed properly, accomplish the following:

One-Time Inspection

(a) Within 60 days after the effective date of this AD, perform a one-time inspection of the wiring and wire bundles of the aft main avionics rack (MAR) to determine if the wires are damaged, or riding or chafing on structure, clamps, braces, standoffs, or clips, and to detect damaged or out of alignment rubber cushions inserts of the wiring clamps; in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A146, dated February 1, 1999.

Note 2: Where there are differences between this AD and the referenced alert service bulletin, the AD prevails.

Corrective Actions

(b) If any damaged wiring is detected during the inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with the alert service bulletin.

(c) If any wire/wire bundle is detected to be riding or chafing on the subject areas during the inspection required by paragraph (a) of this AD, prior to further flight, accomplish paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

Note 3: Operators should note that paragraph 3.A.2. of the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD11–24A146, dated February 1, 1999, incorrectly states, ''* * * as outlined in paragraph 3.B.2 . . . .'' The correct reference is paragraph 3.A.2.

(1) Route and tie all wires/wire bundles so that they are not in contact with adjacent wire bundles, clamps, or structure, and if necessary, install silicone rubber coated glass cloth wrapping on wiring; in accordance with the alert service bulletin.

(2) Perform an inspection of all brackets, clamps, braces, standoffs, and clips to make sure they are not bent or twisted and do not come in contact with wires/wire bundles, in accordance with the alert service bulletin. If any of these parts is bent or twisted or is in contact with wires/wire bundles, prior to further flight, reposition in accordance with the alert service bulletin.

(3) Perform an inspection of the clamps for proper alignment or for damage of the rubber cushion, in accordance with alert service bulletin. If any clamp is not aligned properly, prior to further flight, realign clamp in accordance with the alert service bulletin. If any rubber cushion is damaged, prior to further flight, replace the clamp with a new or serviceable clamp in accordance with Chapter 20–30–01 of McDonnell Douglas MD–11 Airplane Maintenance Manual (AMM), dated February 1, 1999.

(d) If any damaged rubber cushion insert is detected during the inspection required by paragraph (a) of this AD, prior to further flight, replace the clamp with a new or serviceable clamp in accordance with Chapter 20–30–01 of McDonnell Douglas MD–11 Airplane Maintenance Manual, dated February 1, 1999.

(e) If any rubber cushion insert is out of alignment, prior to further flight, visually realign the cushion.

Reporting Requirement

(f) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) Except as provided by paragraphs (c)(2), (c)(3), (d), and (e) of this AD, the actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A146, dated February 1, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on May 7, 1999.

Issued in Renton, Washington, on April 13, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10178 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–42–AD; Amendment 39–11133; AD 99–09–01]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires a visual inspection to verify that the channel flanges of the bracket installations are facing forward and to detect chafing or damage of the wire bundles of the center accessory compartment (CAC), and corrective actions, if necessary. This amendment also requires that operators submit a report of the inspection results to the FAA. This amendment is prompted by an incident in which sparks and smoke came out of the CAC during a functional test due to a wire bundle that had chafed against a support bracket installation, which was installed improperly during production of the airplane. The actions specified in this AD are intended to ensure that such bracket installations are installed properly. Improper installation of the brackets of the CAC could cause chafing of the wire bundles, which could result in sparks, smoke, and possible fire in the CAC.

DATES: Effective May 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–42–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane

Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident of sparks and smoke coming out of the right side of the center accessory compartment (CAC). This incident occurred on a McDonnell Douglas Model MD–11 series airplane during a modification functional test.

Investigation revealed the source of the sparks and smoke to be a wire bundle that had chafed against a support bracket installation. A similar condition was noted on the left side of the CAC. The cause of such chafing has been attributed to improper installation (i.e., flange facing aft) of the brackets during production of the airplane. (This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.)

Improper installation of the brackets of the CAC could cause chafing of the wire bundles, which could result in sparks, smoke, and possible fire in the CAC.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–24A139, dated November 23, 1998. The alert service bulletin describes procedures for a visual inspection to verify that the channel flanges of the bracket installations are facing forward and to detect chafing or damage of the wire bundles on the left and right sides of the center accessory compartment, and corrective actions, if necessary. The corrective actions include removing bracket installations that are facing aft; retaining bracket attaching hardware and wire clamps; reinstalling the bracket with flanges facing forward; reinstalling clamps; and repairing chafed or damaged wire bundles. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to ensure that the support bracket installations are installed properly. Improper installation of the brackets of the CAC could cause chafing of the wire bundles, which result in sparks, smoke, and possible fire in the CAC. This AD requires a visual inspection to verify that the channel flanges of the bracket installations are facing forward and to detect chafing or damage of the wire bundles on the left and right sides of the center accessory compartment, and corrective actions, if necessary. The actions are required to be accomplished in accordance with the alert service bulletin described previously. This AD also requires that operators submit a report of the inspection results to the FAA.

Differences Between the AD and the Referenced Alert Service Bulletin

Operators should note that, although the alert service bulletin recommends accomplishing the visual inspection within 6 months (after the release of the service bulletin), the FAA has determined that an interval of 6 months would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (two work hours). In light of all of these factors, the FAA finds a 60-day compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–42–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive

Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–01 McDonnell Douglas: Amendment 39–11133. Docket 99–NM–42–AD.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0464 inclusive, 0466 through 0552 inclusive, and 0554 through 0618 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the support bracket installations of the center accessory compartment (CAC) are installed properly, accomplish the following:

Visual Inspection

(a) Within 60 days after the effective date of this AD, perform a visual inspection to verify that the channel flanges of the bracket installations are facing forward and to detect chafing or damage of the wire bundles on the left and right sides of the CAC, in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A139, dated November 23, 1998.

Condition 1

(1) If all bracket installations are facing forward, and if no chafing or damage is detected, no further action is required by this AD.

Condition 2

(2) If any bracket installation is facing aft, prior to further flight, remove and retain bracket attaching hardware and wire clamps, reinstall the bracket with flanges facing forward, and reinstall clamps, in accordance with the alert service bulletin.

(3) If any chafing or damage is detected, prior to further flight, repair in accordance with the alert service bulletin.

Reporting Requirement

(b) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A139, dated November 23, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 7, 1999.

Issued in Renton, Washington, on April 13, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–9734 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–43–AD; Amendment 39–11134; AD 99–09–02]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires relocating the support bracket and rerouting the electrical wiring in the aft storage compartment drop ceiling structure. This amendment is prompted by an incident in which a burning odor was detected, and the rear galley power repeatedly tripped off line during flight of an in-service airplane, due to the sense wiring of the galley load control unit (GLCU) chafing against the support bracket. The actions specified in this AD are intended to prevent chafing of the sense wire of the GLCU due to the location of the support bracket of the aft drop ceiling, which could result in electrical arcing, smoke, and possible fire in the aft drop ceiling area of the passenger compartments.

DATES: Effective May 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–43–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which a burning odor was detected, and the rear galley power repeatedly tripped off line. This incident occurred on a McDonnell Douglas Model MD–11 series airplane during flight.

Investigation revealed that the sense wiring of the galley load control unit (GLCU) located in the aft drop ceiling of the passenger compartments chafed against the light ballast; consequently, the wiring shorted. The cause of such chafing has been attributed to the location of the support bracket of the aft drop ceiling. (This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.)

The location of the support bracket of the aft drop ceiling could cause chafing of the sense wire of the GLCU, which could result in electrical arcing, smoke, and possible fire in the aft drop ceiling area of the passenger compartments.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–33A061, December 21, 1998, which describes procedures for relocating the support bracket and rerouting the electrical wiring in the aft storage compartment drop ceiling structure. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to prevent chafing of the sense wire of the GLCU due to the location of the support bracket of the aft drop ceiling, which could result in electrical arcing, smoke, and possible fire in the aft drop ceiling area of the passenger compartments. This AD requires relocating the support bracket and rerouting the electrical wiring in the aft storage compartment drop ceiling structure. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Differences Between the AD and the Referenced Alert Service Bulletin

Operators should note that, although the alert service bulletin recommends accomplishing the relocation and reroute within 6 months (after the release of the service bulletin), the FAA has determined that an interval of 6 months would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the relocation and reroute (two work hours). In light of all of these factors, the FAA finds a 60-day compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–43–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–02 McDonnell Douglas: Amendment 39–11134. Docket 99–NM–43–AD.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0577, 0579, 0581, 0582, 0584, and 0586; certificated in any category.

Note 1: This AD is applicable only to convertible freighters.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the sense wire of the galley load control unit (GLCU) due to the location of the support bracket of the aft drop ceiling, which could result in electrical arcing, smoke, and possible fire in the aft drop ceiling area of the passenger compartments, accomplish the following:

Modification

(a) Within 60 days after the effective date of this AD, relocate the support bracket and reroute the electrical wiring in the aft storage compartment drop ceiling structure, in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A061, dated December 21, 1998.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A061, dated December 21, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 7, 1999.

Issued in Renton, Washington, on April 13, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–9735 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–59–AD; Amendment 39–11136; AD 99–09–04]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires a one-time inspection to verify correct wire terminations of certain circuit breakers in the cockpit overhead switch panel; and correction of incorrect wire termination. This amendment also requires that operators submit a report of the inspection results to the FAA. This amendment is prompted by incidents in which the wiring of circuit breakers on the overhead switch panel lighting were found to be terminated improperly during production of the airplane, which bypassed the circuit breaker protection. The actions specified in this AD are intended to prevent smoke and possible fire in the overhead switch panel lighting circuitry due to an overload condition, as a result of lack of circuit breaker protection.

DATES: Effective May 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–59–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing

Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which the wiring to a circuit breaker on the overhead switch panel lighting was found to be terminated improperly on a McDonnell Douglas Model MD–11 series airplane. The bus assembly and the wire were connected on the same lug with nothing connected to the load side of the circuit breaker (i.e., bypassing the circuit breaker protection).

A subsequent line check of Model MD–11 series airplanes in production revealed that the wiring to three other circuit breakers on the overhead switch panel also were terminated improperly on some airplanes. Further investigation revealed that the MD–11 production build paper did not reference the wire hook-up chart for wire temination of the circuit breakers of the overhead switch panel lighting. (These incidents are not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.)

Lack of circuit breaker protection for the circuit of the overhead switch panel lighting, if not corrected, could result in smoke and possible fire in the overhead switch panel lighting if the circuit breaker has an overload condition.

Other Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive (AD) is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–33A027, dated March 10, 1999, which describes procedures for a one-time inspection to verify correct wire terminations of certain circuit breakers in the cockpit overhead switch panel; and correction of incorrect termination. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to prevent smoke and possible fire in the overhead switch panel lighting circuitry due to an overload condition, as a result of lack of circuit breaker protection. This AD requires accomplishment of the actions specified in the alert service bulletin described previously. The actions are required to be accomplished in accordance with the alert service bulletin described previously. This AD also requires that operators submit a report of the inspection results to the FAA.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–59–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–09–04 McDonnell Douglas: Amendment 39–11136. Docket 99–NM–59–AD.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0464 inclusive, and 0466 through 0475 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke and possible fire in the overhead switch panel lighting circuitry due to an overload condition, as a result of lack of circuit breaker protection, accomplish the following:

One-Time Inspection

(a) Within 60 days after the effective date of this AD, perform a one-time inspection to verify correct wire terminations of certain circuit breakers in the cockpit overhead switch panel, in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A027, dated March 10, 1999.

Condition 1 (Correct Wire Terminations)

(1) If all affected circuit breakers have correct wire terminations, no further action is required by this AD.

Condition 2 (Incorrect Wire Terminations)

(2) If any affected circuit breaker has an incorrect wire termination, prior to further flight, correct termination in accordance with the alert service bulletin.

Reporting Requirement

(b) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A027, dated March 10, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 7, 1999.

Issued in Renton, Washington, on April 13, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–9737 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29544; Amdt. No. 1927]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination— 1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase- Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20951; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription— Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service,

Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantage of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment is part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 16, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
03/16/99 ...	VA	Norfolk	Norfolk Intl	FDC 9/1576	NDB Rwy 5 ORIG...
03/24/99 ...	GA	Savannah	Savannah Intl	FDC 9/1750	MLS Rwy 27, ORIG–A...
03/30/99 ...	UT	Milford	Milford Muni	FDC 9/2079	VOR OR GPS–A AMDT 3...
04/01/99 ...	MO	Kaiser/Lake Ozark	Lee Co. Fine Memorial	FDC 9/2118	LOC/DME Rwy 21, AMDT 1...
04/01/99 ...	MO	St. Louis	Lambert-St. Louis Intl	FDC 9/2125	ILS Rwy 6, ORIG–A...
04/02/99 ...	KS	Olathe	New Century Aircenter	FDC 9/2161	NDB OR GPS Rwy 35, AMDT 4A...
04/02/99 ...	MI	Hancock	Houghton City Memorial	FDC 9/2179	LOC/DME BC Rwy 13, AMDT 11...
04/02/99 ...	MI	Holland	Tulip City	FDC 9/2180	ILS/DME Rwy 26 ORIG–A...

FDC date	State	City	Airport	FDC number	SIAP
04/02/99 ...	MO	Kirksville	Kirksville Regional	FDC 9/2175	LOC/DME Rwy 36, AMDT 6...
04/02/99 ...	MO	Sikeston	Sikeston Memorial Muni	FDC 9/2178	VOR/DME OR GPS Rwy 2, AMDT 1A...
04/02/99 ...	NC	Jacksonville	Albert J. Ellis	FDC 9/2171	ILS RWY 5 AMDT 7A...
04/02/99 ...	NJ	Linden	Linden	FDC 9/2185	GPS–A ORIG...
04/02/99 ...	PA	Pittsburgh	Pittsburgh Intl	FDC 9/2172	ILS Rwy 28L AMDT 6A...
04/06/99 ...	MN	Motley	Morey's	FDC 9/2270	NDB OR GPS Rwy 9, AMDT 1...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2299	GPS Rwy 32 ORIG...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2300	GPS Rwy 28 ORIG...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2302	GPS Rwy 14 ORIG...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2303	VOR Rwy AMDT 22...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2304	VOR OR TACAN Rwy 32, ORIG–A...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2305	NDB Rwy 28 AMDT 28...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2306	ILS Rwy 10 AMDT 9...
04/07/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2307	ILS Rwy 28 AMDT 32...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2348	VOR/DME OR GPS Rwy 18 AMDT 8...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2349	VOR/DME OR GPS Rwy 15 AMDT 1...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2350	ROSSLYN LDA Rwy 18 AMDT 14...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2352	ILS Rwy 36 AMDT 39...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2357	VOR Rwy 36 AMDT 11A...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2358	VOR Rwy 15 AMDT 9...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2361	NDB Rwy 15 AMDT 4...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2363	NDB OR GPS Rwy 36 AMDT 10...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2364	VOR/DME RNAV OR GPS Rwy 3 AMDT 6...
04/09/99 ...	DC	Washington	Ronald Reagan Washington, National ..	FDC 9/2365	VOR/DME RNAV OR GPS Rwy 33 AMDT 5A...
04/09/99 ...	GA	Bainbridge	Decatur County Industrial Airpark	FDC 9/2328	VOR OR GPS–A, AMDT 3...
04/09/99 ...	NY	Syracuse	Syracuse Hancock Intl	FDC 9/2321	GPS Rwy 10 ORIG...
04/09/99 ...	SC	Charleston	Charleston AFB/Intl	FDC 9/2370	RADAR–1 AMDT 16...
04/09/99 ...	TX	Austin	Austin-Bergstrom Intl	FDC 9/2322	ILS Rwy 17L (CAT II), ORIG...
04/12/99 ...	DC	Washington	Ronald Reagan Washington National ...	FDC 9/2422	LDA/DME Rwy 18 AMDT 1...
04/12/99 ...	NH	Portsmouth	Pease Intl Tradeport	FDC 9/2395	ILS Rwy 34 AMDT 1A...
04/13/99 ...	AK	Cold Bay	Cold Bay	FDC 9/2450	ILS Rwy 14, AMDT 16...
04/14/99 ...	KS	Russell	Russell Muni	FDC 9/2448	VOR/DME OR GPS–A AMDT 4...
04/14/99 ...	PA	Monongahela	Monongahela/Rostraver	FDC 9/2459	VOR OR GPS–A AMDT 4A...

[FR Doc. 99–10085 Filed 4–21–99; 8:45 am]
BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Parts 239, 700, 701, 702, and 703

Final Action Concerning Review of Interpretations of Magnuson-Moss Warranty Act; Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions; Rule Governing Pre-Sale Availability of Written Warranty Terms; Rule Governing Informal Dispute Settlement Procedures; and Guides For the Advertising of Warranties and Guarantees

AGENCY: Federal Trade Commission.

ACTION: Notice of final action.

SUMMARY: The Federal Trade Commission (''the Commission'') is announcing its final action in connection with the review of a set of warranty-related rules and guides: the Interpretations of the Magnuson-Moss Warranty Act, (''Interpretations''); the Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions, (''Rule 701''); the Rule Governing Pre-Sale Availability of Written Warranty Terms, (''Rule 702''); the Rule Governing Informal Dispute Settlement Procedures, (''Rule 703''); and the Guides for the Advertising of Warranties and Guarantees, (''Guides'').

The Interpretations represent the Commission's views on various aspects of the Magnuson-Moss Warranty Act (''the Act''), 15 U.S.C. 2301 *et seq.*, and are intended to clarify the Act's requirements. They are similar to industry guides in that they are advisory in nature, although failure to comply with the Act and the Rules under the Act as elucidated by the Interpretations may result in corrective action by the Commission. Rule 701 specifies the information that must appear in a written warranty on a consumer product. Rule 702 details the obligations of sellers and warrantors to make warranty information available to consumers prior to purchase. Rule 703 specifies the minimum standards which must be met by any informal dispute settlement mechanism that is incorporated into a written consumer product warranty and which the consumer must use prior to pursuing any legal remedies in court. The Guides are intended to help advertisers avoid unfair or deceptive practices in the advertising of warranties or guarantees.

EFFECTIVE DATE: April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Carole I. Danielson, Investigator, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326–3115.

SUPPLEMENTARY INFORMATION: On April 3, 1996, the Commission published a **Federal Register** notice [1], soliciting written public comments concerning four warranty rules and guides: (1) The Commission's Interpretations of the Magnuson-Moss Warranty Act, 16 CFR part 700; (2) the Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR part 701; (3) the Rule Governing Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702; and (4) the Guides for the Advertising of Warranties and Guarantees, 16 CFR part 239. On April 2, 1997, the Commission published a second **Federal Register** notice, this time soliciting written public comments concerning Rule 703.[2] On June 13, 1997, the Commission extended the comment period on Rule 703 until August 1, 1997.[3] The Commission requested comments on these rules and guides as part of its regulatory review program, under which it reviews rules and guides periodically in order to obtain information about the costs and benefits of the rules and guides under review, as well as their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. After careful review of the comments received in response to both requests, the Commission has determined to retain the Interpretations, Rules 701, 702, and 703, and the Guides without change.

A. Background

1. 16 CFR Part 700: Interpretations of the Magnuson-Moss Warranty Act (''Interpretations'')

The Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.*, which governs written warranties on consumer products, was signed into law on January 4, 1975. Soon thereafter, the Commission received many questions concerning the Act's requirements. In response to these inquiries, the Commission decided to provide guidance in order to facilitate compliance with the requirements of the Act. The Commission published a policy statement in the **Federal Register** (40 FR 25721) on June 18, 1975, to provide interim guidance during the initial implementation of the Act. As the Commission continued to receive questions and requests for advisory opinions, however, it determined that guidance of a more permanent nature was appropriate. Therefore, on July 13, 1977, the Commission published in the **Federal Register** (42 FR 36112) its Interpretations of the Magnuson-Moss Warranty Act.

The Interpretations apply to written warranties on consumer products. They set forth the Commission's views on various terms and provisions of the Act that are not entirely clear on the face of the statute. Thus, the Interpretations clarify the Act's requirements for all who are affected by them—consumers, manufacturers, importers, distributors, and retailers. The Interpretations are not substantive rules, and do not have the force or effect of such rules; like industry guides, they are advisory in nature. Nonetheless, failure to comply with the requirements of the Act and the substantive Rules adopted under the Act as elucidated by the Interpretations could result in enforcement action by the Commission.

The Interpretations cover a wide range of subjects covered by the Act and terms used in the Act, including what types of products are considered ''consumer products'' under the Act; what constitutes an ''expression of general policy'' under section 103(b) of the Act [4] and what the Act requires with respect to such expressions of general policy; how warranty registration cards may be used in connection with full and limited warranties; what constitutes an illegal tying arrangement under section 102(c) of the Act;[5] and how to distinguish between ''written warranty,'' ''service contract,'' and ''insurance.''

2. 16 CFR Part 701: Disclosure of Written Consumer Product Warranty Terms and Conditions (''Rule 701'')

The language of the Act and its legislative history make it amply clear that Congress intended that the Commission promulgate rules regarding the disclosure of written warranty terms and conditions. Accordingly, on December 31, 1975, the Commission published Rule 701 in the **Federal Register**.[6] Rule 701 sets forth what warrantors must disclose about the terms and conditions of the written warranties they offer on consumer products that actually cost the consumer more than $15.00. Rule 701 tracks the disclosure requirements suggested in

[1] 61 FR 14688 (April 3, 1996).
[2] 62 FR 15636 (April 2, 1997).
[3] 62 FR 32338 (June 13, 1997).
[4] 15 U.S.C. 2303(b).
[5] 15 U.S.C. 2302(c).
[6] 40 FR 60168, 60188.

section 102(a) of the Act,[7] specifying information that must appear in the written warranty, and, for certain disclosures, mandates the exact language that must be used. Rule 701 requires that the information be disclosed in a single document in simple, easily understood, and concise language. In promulgating Rule 701, the Commission determined that the items required to be disclosed are material facts about product warranties, the non-disclosure of which would be deceptive or misleading.[8]

In addition to specifying the information that must appear in a written warranty, Rule 701 also requires that, if the warrantor uses a warranty registration or owner registration card, the warranty must disclose whether return of the registration card is a condition precedent to warranty coverage. (16 CFR 701.4) Finally, it clarifies that, in connection with some ''seal of approval'' programs, the disclosures required by the Rule need not be given in the actual seal itself, if they are made in a publication. (16 CFR 701.3(b))

3. 16 CFR Part 702: Pre-Sale Availability of Written Warranty Terms (''Rule 702'')

Section 102(b)(1)(A) of the Act directs the Commission to prescribe rules requiring that the terms of any written warranty on a consumer product be made available to the prospective purchaser prior to the sale of the product. Accordingly, on December 31, 1975, the Commission published Rule 702 in the **Federal Register**.[9] Subsequently, the Commission amended the Rule on March 12, 1987, to provide sellers with greater flexibility in how to make warranty information available.[10]

Rule 702 establishes requirements for sellers and warrantors to make the text of any written warranty on a consumer product available to the consumer prior to sale. Among other things, the Rule (as amended) requires sellers to make the text of the warranty readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that the warranty is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements, and also sets out the methods by which warranty information can be made available prior to the sale if the product is sold through catalogs, mail order or door-to-door sales.

4. 16 CFR Part 703: Informal Dispute Settlement Procedures (''Rule 703'')

In enacting the Warranty Act, Congress recognized the potential benefits of consumer dispute mechanisms as an alternative to the judicial process. Section 110(a) of the Act sets out the Congressional policy to ''encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms'' and erected a framework for their establishment. As an incentive to warrantors to establish such informal dispute settlement mechanisms (''IDSMs''), Congress provided in section 110(a)(3), 15 U.S.C. 2310(a)(3), that warrantors may incorporate into their written consumer product warranties a requirement that a consumer must resort to an IDSM before pursuing a legal remedy under the Act for breach of warranty. To ensure fairness to consumers, however, Congress also directed that, if a warrantor were to incorporate such a ''prior resort requirement'' into its written warranty, the warrantor must comply with the minimum standards set by the Commission for such IDSMs; section 110(a)(2) directed the Commission to establish those minimum standards. Accordingly, on December 31, 1975, the Commission published Rule 703, 16 CFR part 703.[11]

Rule 703 contains extensive procedural standards for IDSMs, which must be followed by any warrantor who wishes to incorporate an IDSM, through a prior resort requirement, into the terms of a written consumer product warranty. These standards include requirements concerning the mechanism's structure (e.g., funding, staffing, and neutrality), the qualifications of staff or decision makers, the mechanism's procedures for resolving disputes (e.g., notification, investigation, time limits for decisions, and follow-up), recordkeeping, and annual audits. The Rule applies only to those firms that choose to be bound by it by placing a prior resort requirement in their written consumer product warranties. Neither Rule 703 nor the Act requires warrantors to set up IDSMs. Furthermore, a warrantor is free to set up an IDSM that does not comply with Rule 703 as long as the warranty does not contain a prior resort requirement.

In the twenty years since Rule 703 was promulgated, most developments in mediation and arbitration programs for the resolution of consumer warranty disputes has taken place in the automobile industry. It is unclear how many companies, if any, continue to utilize a Rule 703 mechanism.[12] Most vehicle manufacturers no longer include a prior resort requirement in their warranties; thus, they and any dispute resolution programs in which they participate are not required to comply with Rule 703.

The fact that most warrantors do not include prior resort requirements in their warranties does not mean, however, that warrantors have abandoned informal dispute resolution programs. On the contrary, due to the terms of state lemon laws[13] (as explained more fully below), all major automakers participate in either manufacturer-sponsored or state-run dispute resolution programs that frequently are modeled on the minimum standards set out in Rule 703 even though they are not required to do so under any provision of federal law.

5. 16 CFR Part 239: Guides for the Advertising of Warranties and Guarantees (''Guides'')

In May, 1985, the Commission published the Guides in the **Federal Register**.[14] The Guides were intended to help advertisers avoid unfair or deceptive practices when advertising warranties or guarantees. They took the place of the Commission's ''Guides Against Deceptive Advertising of

[7] 15 U.S.C. 2302(a).

[8] 40 FR 60168, 60169–60170.

[9] 40 FR 60168, 60189.

[10] 52 FR 7569.

[11] 40 FR 60190.

[12] General Motors ceased incorporating an IDSM in its warranty beginning with its 1986 models and no longer operates a 703 program. Ford discontinued operation under Rule 703 with its 1988 model year cars. Chrysler discontinued its Rule 703 program with its 1991 models. Similarly, American Honda, Nissan, Volvo, and other auto manufacturers have all discontinued operating Rule 703 programs. The Commission has not been notified that any of these manufacturers has reinstituted a prior resort requirement in their warranties. Although they are not required to do so, the IDSMs for the major auto manufacturers continue to file annual audits with the Commission. These audits are placed on the public record and can be obtained from the FTC's Public Reference Branch, Room 130, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580; 202–326–2222. (FTC File No. R711002)

[13] State lemon laws give consumers the right to a replacement or a refund if their new cars cannot be repaired under warranty. Under these lemon laws, if a reasonable number of repair attempts fails to correct a major problem, the manufacturer must either replace the car or refund the full purchase price, less a reasonable allowance for the consumer's use of the car prior to reporting the defect. Most of these laws define a ''reasonable number of repair attempts'' to be four or more times during the first year of ownership. Consumers may also be entitled to a refund or replacement remedy when a new car has been out of service for repair for the same problem for a cumulative period of thirty days or more within one year following delivery of the vehicle.

[14] 50 FR 18470 (May 1, 1985); 50 FR 20899 (May 21, 1985).

Guarantees,'' 16 CFR part 239, adopted April 26, 1960, which had become outdated due to developments in Commission case law and, more importantly, changes in circumstances brought about by the Magnuson-Moss Warranty Act and by Rules 701 and 702 under that Act. The 1985 Guides advise that advertisements mentioning warranties or guarantees should contain a disclosure that the actual warranty document is available for consumers to read before they buy the advertised product. In addition, the Guides set forth advice for using the terms ''satisfaction guarantees,'' ''lifetime,'' and similar representations. Finally, the Guides advise that sellers or manufacturers should not advertise that a product is warranted or guaranteed unless they promptly and fully perform their warranty obligations.

B. Analysis of the Comments on the Interpretations, Rule 701, Rule 702, and the Guides

Seven (7) organizations submitted comments in response to the April 3, 1996, **Federal Register** notice.[15] The small number of comments likely reflects that compliance with these Rules and Guides is not burdensome and that seeking rescission or modification of them is therefore not a high priority for industry members most closely affected by them. In fact, the comments generally reflect a strong level of support for the view that the Warranty Rules and Guides are achieving the objectives they were fashioned to achieve—*i.e.*, to facilitate the consumer's ability to obtain clear, accurate warranty information, as well as the consumer's ability to enforce a warrantor's contractual obligations under any written warranty. Some commenters enthusiastically supported the current regulatory regime. For example, AAMA stated that the current system is working well and is not unreasonably costly to warrantors. AAMA stated that the Rules are workable and understood by industry and that there is no evidence that either the adequacy of warranty disclosure or that the legal sufficiency of the warranties given is a major source of complaints; nor is there evidence that customers are unaware of their warranty rights. AAMA cautioned:

> In view of the effectiveness of the current system, AAMA and its members * * * urge the Commission to proceed cautiously in considering a major overhaul to the Rules. Any comprehensive changes will unavoidably involve substantial compliance costs as warrantors and their staffs will have both to unlearn the current system and to assimilate the new provisions. * * * The Magnuson-Moss Warranty Act and the Rules promulgated under it provide an important avenue for consumer protection and establishing consumer confidence in the marketplace and the products they buy. As presently structured, these Rules are workable and effective, and permit warrantor compliance without unreasonable expense. * * * (A) major overhaul of the system is neither necessary or appropriate.

AAMA recommended that, before making any significant changes to the system, the Commission should first conduct a formal study of the marketplace to ensure that changes are needed, the specific proposed revisions would help, and the benefits achieved would outweigh the costs of the changes to industry and to consumers.[16]

NAIMA echoed AAMA's positive appraisal of the benefits derived from the Warranty Rules and Guides. NAIMA cautioned that, in the absence of such guides, there would be an increase in unfair and deceptive uses of warranties to promote products.[17] NAIMA believes that the warranty regulations benefit both consumers and warrantors: the requirements ''increase the consumer's confidence in a warranty and increase the likelihood that a consumer will rely on the warranty * * * (T)he honest warrantor also benefits because of increased consumer confidence in warranties.'' [18] NAIMA noted that the costs of the warranty regulations are not imposed upon businesses by government, but rather are voluntarily assumed by companies that choose to offer written warranties. As such, NAIMA states that ''any cost incurred by a firm would be calculated into a business decision to offer a warranty or guarantee and should not be weighed as a factor to eliminate or diminish the requirement.'' [19]

Four other commenters, although not expressly endorsing retention of the present regulatory regime, supported such retention by implication in suggesting modifications to the rules and guides which they believed would provide greater consumer protections and/or minimize burdens on firms subject to the regulations. One commenter (NRF) recommended that the Commission report to Congress that the Rule 702 was no longer necessary and recommend that Congress amend that portion of Magnuson-Moss requiring a pre-sale availability rule so that Rule 702 could be repealed.[20] However, for the reasons discussed herein, the Commission has decided that both Rule 702 and the other Rules and Guides should be retained. In the following, we discuss in more depth each of the suggestions and the basis for the Commission's decision.

1. 16 CFR Part 700: Interpretations.

a. *''Building materials'' exemption.* Under §§ 700.1(c)–(f) of the Commission's Interpretations, building materials are *not* ''consumer products'' covered by the Act when they are already incorporated into the structure of a dwelling at the time the consumer buys the home. These same building products *are* ''consumer products'' covered by the Act when they are sold over-the-counter directly to the consumer by a retailer. Two commenters (Cohen and NAIMA) argued that the dichotomy created by this interpretation is confusing and irrational. They asserted that the current interpretation deprives consumers of the benefits and protections of the Act and its Rules when they purchase a home.

Cohen argued that the current interpretation is counter to the legislative history, intent, and language of the Act. The Act defines ''consumer product'' as ''any personal property * * * which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed). (15 U.S.C. 2301(1)) Cohen asserted that building materials fall within the category of personal property intended to be attached to or installed in any real property. Cohen also cited the House Committee's discussion of the definition as support for the proposition that Congress intended that items that were to become part of realty were to be covered by Magnuson-Moss as ''consumer products.'' [21]

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[15] The seven commenters are: (1) American Automobile Manufacturers Association (''AAMA''); (2) Association of International Automobile Manufacturers, Inc. (''AIAM''); (3) Cohen, Milstein, Hausfeld & Toll (''Cohen'') by Gary Mason, Esq.; (4) National Consumer Law Center (''NCLC''); (5) National Retail Federation (''NRF''); (6) North American Insulation Manufacturers Association (''NAIMA''); and (7) North American Retail Dealers Association (''NARDA'') by James M. Goldberg, Esq., Goldberg & Associates.

[16] AAMA at 2.

[17] NAIMA at 2.

[18] NAIMA at 4.

[19] NAIMA at 3.

[20] NRF at 2.

[21] ''There are many products which fall within this definition (tangible personal property normally used for personal, family, or household purposes) which are also used for other than personal, family, or household purposes * * *. Under concepts of property law, fixtures such as hot water heaters and air conditioners when incorporated into a dwelling become a part of the real property. It is intended that the provisions of Title I continue to apply to such products regardless of how they are classified.'' H.R. Rep. No. 93–1107, 93rd Cong., 2d

The Commission is not persuaded by these arguments. The Commission's analysis starts with the statute. The Commission believes that there are three conclusions that can be drawn based on the language used in the statutory definition of ''consumer product.'' First, the definition assumes the traditional legal distinction between real property and personal property. Second, it clearly places ''personal'' property within the scope of the Act's coverage. Third, through the drafters' choice of language, the definition obviously stops short of sweeping within the scope of the Act's coverage *all* property, real and personal. In this connection, the legislative history includes the following instructive colloquy, which was part of the floor debate on the legislation by Congressmen Broyhill and Moss, two members of the Conference Committee and of the House Committee responsible for the Act: [22]

Mr. Broyhill of North Carolina. I would like to address a question to Mr. Staggers or Mr. Moss concerning the definition of ''consumer product'' in section 101(1) of the bill. Would a house be in the definition of consumer product?

Mr. Moss. A house would not fall within the definition of consumer product since a house is not quite ''tangible personal property.''

Mr. Broyhill of North Carolina. If a warranty applied to component parts of a home such as dry wall, plumbing, heating and air conditioning, would these items be in the definition of ''consumer product''?

Mr. Moss. The definition of consumer product in section 101 includes ''tangible personal property which is distributed in commerce and which is normally used for personal, family or household purposes—including any such property intended to be attached to or installed in any real property.'' This definition would apply to any separate equipment such as heating and air conditioning systems which are sold with a new home. However, such a definition would not apply to items such as dry walls, pipes, or wiring which are not separate items of equipment but are rather integral components of a home.

The Commission believes that the Interpretations embody the same practical rationale as that espoused by the Act's sponsor in the above-quoted exchange. The Interpretations draw the line, apparently contemplated by the language of the statute, to separate personalty (covered by the Act) and realty (not covered) in a manner that is clear and workable, and that is consistent with the intent of Congress, to the extent it can be determined. Thus, after having reconsidered this issue, the Commission adheres to the view that its original interpretation is correct and should be retained as written: Structural components of a new home such as lumber, dry wall, pipes or electrical conduit or wiring are not considered separate items of equipment and are not considered consumer products within the meaning of section 101 of the Act. Insulation is another item that is a structural component of a new home and thus would not be a consumer product. These items are not *functionally* separate from the realty. In contrast, such items would be ''consumer products'' and within the scope of the Act were they purchased either separately or in combination to improve, repair, replace or otherwise modify an existing structure. This distinction holds true regardless of whether the consumer purchased the items for new home construction directly from a retail supplier.

b. Coverage of export items. In its comment, NCLC asked the Commission to reconsider whether its warranty regulations should apply to goods exported to foreign countries. In § 700.1(i) of its Interpretations, the Commission stated that, although the Act arguably applies to products exported to foreign jurisdictions:

> the public interest would not be served by the use of Commission resources to enforce the Act with respect to such products. Moreover, the legislative intent to apply the requirements of the Act to such products is not sufficiently clear to justify such an extraordinary result.

No evidence has been submitted to the Commission that would justify changing its stated position. The Commission's enforcement responsibilities have expanded since adoption of the Interpretations in 1976, spreading scarce law enforcement resources further. Therefore, the Commission has decided to retain § 700.1(i) remain as written.

c. Warrantor's decision as final. Section 700.8 prohibits the warrantor from indicating in any warranty or service contract that the decision of the warrantor, service contractor, or any designated third party is final or binding in any dispute involving the warranty or service contract. NCLC expressed the fear that a warrantor who is also the seller could circumvent this prohibition by placing such a restriction in a document other than the warranty or service contract and, therefore, suggested that the Commission reword this section in order to bar such a possibility. No evidence has been provided, however, to indicate that this hypothetical situation occurs, or that it occurs with a frequency that would merit the expenditure of Commission resources necessary to make the wording change. Absent such evidence, the Commission has decided to retain § 700.8 unchanged.

d. Tying arrangements. Section 700.10 sets out the Commission's interpretations regarding the use of tying arrangements in connection with warranties. Among other things, § 700.10 prohibits conditioning the continued validity of a warranty on the use of authorized repair service for non-warranty service and maintenance. NCLC recommended that the Commission amend § 700.10 to prohibit used car warranties which provide for a percentage (e.g., 25 percent) of parts and labor costs provided the repair is done by the dealer or a place of the dealer's choosing. According to NCLC, these warranties allegedly are for a short term, often 30-days or 1,000 miles. NCLC stated that these warranties are common among ''low-end'' used car dealers and alleges that the warranties harm consumers because they provide little value and that the consumer has little control over the prices charged for the repair. Since the consumer is paying 75 percent of the repair cost under the warranty, the consumer may actually lose money by using the warranty to obtain repairs, according to NCLC.

The Commission has determined not to incorporate the change NCLC proposed into the Interpretations for two reasons. First, a drafting change probably is not necessary to accomplish what NCLC advocated, since such warranties already likely violate section 102(c) of the Act. Section 102(c) prohibits arrangements that condition warranty coverage on the use of an article or service identified by brand, trade, or corporate name *unless that article or service is provided without charge to the consumer.* Since the consumer must pay a significant charge for parts and labor under these warranties, the warranties may violate section 102(c) by restricting the consumer's choices for obtaining warranty service. Second, the Commission notes that, although consumers may have little control over the prices charged for repairs under such warranties, they do have a choice of whether to use the warranty. Many states have enacted legislation requiring auto servicers to give estimates on any repair to be done. These estimates allow the consumer to shop for the best price. If the consumer realizes that having a repair done under the warranty may actually cost more than having the repair done by an independent servicer, the consumer can go elsewhere for the

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Sess., (1974) *reprinted* in 1974 U.S.C.C.A.N. 7702, at 7716-7717.

[22] *Congressional Record*, Vol. 120, No. 139 (September 17, 1974) p. H9316.

work. For these reasons, the Commission has decided to retain § 700.10 as written.

2. 16 CFR Part 701: Disclosure of Terms and Conditions (Rule 701).

a. ''On the face of the warranty'' requirement. Two commenters (AAMA and AIAM) suggested that the Commission modify the requirement in § 701.3(a)(7) that limitations on the duration of implied warranties be ''disclosed on the face of the warranty.'' In the case of multi-page warranty documents, § 701.1(i)(1) of the Rule defines ''face of the warranty'' to mean ''the page on which the warranty text begins.'' The commenters stated that this restriction constrains the warrantor's ability to make the warranty document more user-friendly. They maintain that a warranty booklet is more difficult for consumers to read when the limitations come before complete descriptions of all warranty coverage. These commenters suggest that § 701.3(a)(7) be modified to permit the limitations to appear anywhere within the text of the warranty, provided that the limitations are displayed prominently, clearly and conspicuously.

The Commission believes that § 701.3(a)(7) should be retained without change. One of the problems that led to passage of the Magnuson-Moss Warranty Act was that warrantors frequently gave warranties which at first appeared to offer very expansive coverage, which was in fact severely eroded by provisions buried further on in the document limiting coverage of the written warranty, or of the implied warranties of merchantability or fitness for a particular purpose. Such warranties were deceptive, since they could mislead consumers into thinking that coverage is greater than it actually is. Protection of the consumer's implied warranty rights is the bedrock of the Magnuson-Moss Warranty Act regulatory scheme. Accordingly, it is essential that any limitation on these rights be disclosed up-front and not buried elsewhere in a multi-page document. The Commission has been provided with no evidence that would compel revision of this core provision of Rule 701.

b. Value thresholds. Two commenters[23] suggested that the Commission should modify §§ 701.3(a) and 702.3 to increase the threshold for products subject to the rules in order to account for the impact of inflation. The AAMA suggested that the threshold be raised from $15 to $25, and also suggested that the Commission report to Congress, recommending that the corresponding value thresholds in the statute itself also be adjusted (15 U.S.C. 2302(e) and 2303(d)).[24] The Commission, however, believes that the dollar thresholds set out in the rules and in the statute remain appropriate. The statute and the rules were drafted to be flexible. There is no requirement that a company offer a written warranty. Therefore, a company that sells a product costing less than $15 is under no obligation to give a written warranty. The costs of compliance are minimal for those products that cost under $15—*i.e.*, principally a prohibition against warranty tying arrangements and a requirement that the warranty be labeled either ''limited'' or ''full.''

Furthermore, the Commission believes that consumers might be deprived of important protections if the threshold for rule coverage were to be raised to $25. Although many warrantors voluntarily would continue to disclose fully the terms and conditions of the warranty, others might choose not to do so since the legal obligation would no longer be present. It is true that, if a low-cost product were to malfunction, some consumers might choose to simply throw it away and purchase another. However, not all consumers view products costing $15–$25 as disposable. Some consumers might choose to assert their warranty rights in getting the product repaired or replaced.[25] Therefore, the Commission has decided that the threshold values for coverage by the statute and the rules shall remain unchanged.

c. Use of owner registration cards. One commenter[26] recommended that § 701.4[27] should be eliminated due to perceived conflict with the Commission's interpretations in 16 CFR 700.7(b) regarding the use of owner registration cards in connection with a *full* warranty, and with the intent of Section 104(b)(1) of the Act.[28] NARDA stated the view that retaining 701.4 would allow manufacturers to continue ''raiding'' retailer customer lists under the guise of ''warranty card registration.'' NARDA opined that such customer information can be used by manufacturers to compete directly with the retailer in offering service contracts and other products. NARDA did not oppose that manufacturers be allowed to collect demographic and similar market information on consumers, but urged that they should not be allowed to do so under the premise of conditioning warranty coverage on the furnishing of that information.

A second commenter (NCLC) suggested that § 700.7(c) should be clarified to prohibit return instructions for registration cards that imply that returning the card is necessary in order to obtain warranty coverage. NCLC cites language such as ''Return this card to ensure warranty registration'' as misleading because consumers are led to believe that registration is necessary to obtain coverage.

The Commission is aware that warrantors commonly request that purchasers return owner or warranty registration cards in order to obtain marketing and demographic information. The required return of such owner registration cards is prohibited as an ''unreasonable duty'' *only* when the warrantor gives a full warranty; requiring return of such cards is permitted under a *limited* warranty as long as the warrantor discloses in the

[23] AAMA at 3; NAIMA at 5.

[24] Section 102(e) of the Act provides that all written warranties on consumer products costing $5 or more will be subject to the provisions of section 102. This threshold serves two purposes: First, it insures that any warrantor giving a written warranty on a consumer product costing $5 or more may not condition the warranty on the consumer's use of a specific brand or trade name of product or service (15 U.S.C. 2302(c)). Second, this section sets a floor for the written warranties to be covered by the Commission rules which were to be promulgated under the Act. Those rules could set the threshold higher than $5, but could not lower the threshold to encompass all products. In addition, section 103(d) provides that only those warranties on products costing $10 or more must adhere to the labeling requirements of section 103 (*i.e.*, labeling the warranty either ''limited'' or ''full.'')

[25] This position has some support from the 1984 Warranty Consumer Follow-Up Study, (''Warranty Rules Consumer Follow-Up: Evaluation Study Final Report'' (1984), at ES–4. (''Warranty Study'')), in which over 30 percent of the respondents felt that it was important to see the warranty for products costing as little as $15.

[26] NARDA at 1–2.

[27] Section 701.4 requires a warrantor to disclose in the warranty if an owner or warranty registration card is a condition precedent to warranty coverage. The section also requires the warrantor to disclose that the return of the card is not necessary for warranty coverage if the return of such a card reasonably appears to be a condition precedent to warranty coverage and performance, but is not such a condition.

[28] Section 104(b)(1) of the Act prohibits a warrantor that offers a ''full'' warranty (*i.e.*, one that meets the minimum standard of coverage set out in section 104(a)) from imposing on the consumer any duty other than notification in order to obtain warranty service. Section 770.7 of the Interpretations cover the use of warranty registration cards as a condition precedent to perform obligations under a full warranty and whether the use of such cards constitutes an ''unreasonable duty'' in violation of section 104(b)(1). The Interpretations state that the use of such cards constitute an ''unreasonable duty'' when their return is a condition precedent to warranty performance and coverage under a full warranty. However, warrantors may suggest the use of such cards as one possible means of proof of the purchase date of the product. In addition, sellers can use these cards to obtain information from purchasers at the time of sale on behalf of the warrantor.

warranty that the consumer must return the card in order to get coverage.

However, no evidence submitted to the Commission identified specific situations where the return of such a card is a condition precedent for warranty coverage, or how often this occurs, if at all. Nor has any evidence been provided that consumers actually are being misled by the language used on owner registration cards. The record, therefore, contains no indication that such language is inherently deceptive or misleading and as such should be banned. (Of course, particular language or instructions could still be challenged as deceptive or unfair under section 5 of the FTC Act (15 U.S.C. 45)).

In sum, in the absence of specific evidence that these cards are being misused by warrantors and/or that the language used is inherently deceptive or misleading, the commission believes that §§ 701.4 and 700.7 should remain unchanged.

3. 16 CFR 702: Pre-Sale Availability (Rule 702)

a. Should the Rule be Rescinded? The NRF proposed that Rule 702 no longer serves the purpose for which it was intended and that it should be rescinded. Section 102(b)(1)(A) of the Magnuson-Moss Warranty Act [29] directs the Commission to promulgate rules requiring that the terms of any written warranty be made available to the consumer prior to sale. Because the Act specifically requires a pre-sale availability rule, the NRF recommended that the Commission report to Congress that the rule is no longer necessary to ensure that consumers are informed about warranties and request that Congress repeal section 102(b)(1)(A) of the Act.

The NRF asserted that consumers no longer need Rule 702 in order to obtain information about warranties since a variety of sources exist for consumers to educate themselves about consumer issues in general, including warranties. To buttress this argument, the NRF cited an anecdotal survey conducted by three of its members indicating that consumers rarely request warranty information from retailers.[30] The NRF also cited the Commission's 1984 Warranty Study as further support for rescinding the rule. According to NRF, that study indicated that the primary reason consumers did not ask retailers for warranty information was that they already knew all they needed to know about the warranty for the particular product they were buying.[31] The NRF reasoned that since few consumers request warranty information from retailers, most consumers are aware of warranties. Therefore, according to NRF, the Commission is imposing unnecessary costs on retailers to maintain product warranties on hand and up to date.

The Commission believes that NRF is misguided in its interpretation of the Warranty Study results. The Commission believes that the Warranty is more a measure of the importance of warranties in making a purchase decision on certain products rather than the importance to consumers of pre-sale availability of warranty information generally on all products. The study shows that warranties were considered in the purchase decision for 54.2 percent of the products for which buyers comparison shopped.[32] In 40 percent of those cases, consumers reported having information about the warranty prior to purchasing the product. Of those 40 percent, 23.1 percent said that they received at least some of that information from reading the warranty.[33] The study goes on to state:

> Most consumers [who did not read warranties before buying] did not believe pre-purchase warranty reading was important **in that particular instance**. * * * While very few consumers appear to engage in serious warranty reading, **most feel that it is important to see the written warranty before buying—only 11.8 percent of the respondents believed that it was never important to see the warranty before buying.** [emphasis added] [34]

If most consumers believe that it is important to see the warranty before buying in some instances, the Commission believes that it would not be in the public interest to recommend legislative action that would permit rescission of Rule 702. Certainly, before recommending that such a drastic step be taken, the Commission would require more up-to-date factual evidence countering the results of the 1984 Warranty Study regarding the importance to consumers of having warranty information available before the sale.

The Commission believes that Rule 702 continues to serve the purpose for which it was intended: to ensure that full and accurate warranty information is available prior to sale when consumers want it. In some instances and with respect to some purchases, consumers might be satisfied with general information about a warranty that can be gleaned from other sources such as advertising or a salesperson's oral presentation. Nonetheless, the warranty survey indicates that, in a substantial number of instances, such information will not satisfy consumers' needs. Because a warranty is a legally enforceable document that defines the respective rights and obligations of the purchaser and the warrantor, a summary description of the warranty, derived from advertising or from a salesman's oral representations, may or may not completely and accurately convey material terms of coverage. Such alternative sources of information are an inadequate substitute for the actual text of the warranty.

Furthermore, the 1987 amendment to Rule 702 gave retailers a great deal of flexibility in how to comply with the rule and alleviated much of the burden imposed by the original rule. The Commission believes that this flexibility has made compliance costs minimal. Anecdotal information provided by the NRF for three members regarding compliance costs does not provide an adequate basis to conclude that compliance costs outweigh benefits and that Congress should repeal the Act's requirements for a rule on pre-sale availability of warranty information.

b. Posting requirement. NARDA recommends that the Commission should amend § 702.3(a) to eliminate the requirement that retailers post signs notifying customers where actual copies of the warranties may be obtained.[35] NARDA maintains that since the rule was adopted in 1975, compliance with

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[29] 15 U.S.C. 2302(b)(1)(A).

[30] The NRF also cites the Commission's statement in its 1987 amendment of Rule 702 that ''consumers rarely consult warranty binders.'' (NRF at 2, citing 52 FR 7569, 7569 (March 12, 1987). However, the Commission notes that it made this statement in the context of explaining why the specific detailed methods of compliance were not needed and why detailed regulatory requirements were unnecessary. While the statement is useful in explaining why more flexible methods are necessary to provide warranty information, Commission believes that it would be incorrect to infer from that statement that it is unnecessary to ensure that warranty information is available.

[31] Warranty Study at 57.

[32] The Warranty Study implies that one reason many consumers do not read warranties before buying a product is because they rarely experience problems with the products they purchase and, those who do, had few problems in obtaining satisfactory repairs under the warranty. (Warranty Study at ES–3)

[33] Warranty Study at ES–2. The Warranty Study also indicates that more people apparently learn about warranties from salespersons and newspaper or magazine articles than from an actual reading of the document. However, more people will seek out warranty information on high-priced goods. (Warranty Study at 50)

[34] Warranty Study at ES–4.

[35] Section 702.3(a) requires the retailer to either display the actual product warranty in close proximity to the product, or to furnish it upon request. If the retailer chooses to furnish it on request, the retailer must place signs in prominent locations advising buyers that copies of warranties are available upon request.

the posting requirement has ebbed to the point where few retailers comply. However, despite the alleged non-compliance, NARDA believes that there has been no corresponding decrease in information made available to consumers. NARDA recommends that the rule should be amended to eliminate the posting requirement and simply require retailers to make warranty information available upon request.[36] NARDA believes that this modification would cause no consumer harm and would eliminate compliance costs for those retailers who do attempt to comply with the requirement.

Commission has been concerned about the non-compliance with the Rule 702 that NARDA alleges is commonplace. As a result, the Commission has brought several actions against major retailers in recent years for failing to comply with the rule's requirements.[37] These actions place all retailers on notice that they risk Commission action by ignoring their compliance responsibilities under Rule 702. If NARDA is correct that there is widespread non-compliance with the posting requirements of Rule 702, such non-compliance would not support eliminating the requirement as much as it would support an argument for increased enforcement activity.[38]

NARDA does not offer any empirical evidence regarding the compliance costs of posting signs regarding the availability of warranty information. When the Commission amended Rule 702 in 1987, it substituted the posting requirement for the requirement in the original rule that specified the particular methods by which retailers should make the warranty information available (*e.g.*, by the use of a binder). At that time, the evidence available to the Commission indicated that the cost of posting signs is relatively low. The Commission concluded that, on balance, this low compliance cost was substantially outweighed by the potential benefit of raising consumer awareness about their ability to obtain warranty information. The Commission has seen no evidence which would challenge this conclusion and, therefore, has determined that § 702.3(a) be retained unchanged.

c. Plain language warranties. One commenter (NCLC) suggested that the Commission amend § 702.3 to require the display of ''key points'' of warranties, especially on big-ticket items.[39] NCLC also suggested that the Commission consider creating model ''plain-language'' warranty forms as a guide on how to write warranties that can be easily understood.

The Commission believes that market forces already drive many warrantors and retailers to promote the key points of their warranties, in print and broadcast media as well as in point-of-sale promotional pieces. In fact, because of this competition, the Commission issued its Guides for the Advertising of Warranties and Guarantees to ensure that consumers are not misled into thinking that the ''key points'' mentioned constitute all material terms of coverage. The Guides require a statement directing consumers to where they can obtain full details of the warranty. Given the apparent healthy competition in promoting warranties, the Commission sees no basis for government intervention to impose such a ''key points'' disclosure requirement. With regard to creating model ''plain-language'' warranty forms, the Commission believes that the examples and guidance set out in the FTC business education publications, *A Businessperson's Guide to Federal Warranty Law* and *Writing Readable Warranties,* are sufficient to assist those who want to make their warranties readable.[40]

4. 16 CFR Part 239: Warranty Guides

One commenter (AIAM) suggested that the Commission amend the Warranty Guides to eliminate the requirement that an advertisement mentioning a warranty also include a statement of where the consumer can find complete details about the warranty. The AIAM believed that, at least for automobiles, the statement ''See your dealer for details'' is a ''statement of the obvious and accordingly unnecessary.''

The Commission does not believe the disclosure of such information is unnecessary. The message intended is not just that the dealer or other retailer has the warranty; that much is obvious. What may not be obvious is the remainder of the message: that prospective purchasers have a right to read the warranty, if they desire, before purchasing. Because the aspects of warranty coverage touted in an advertisement may not necessarily provide a complete understanding of a warranty's overall coverage, the Commission believes that it is important to alert consumers that the actual warranty text is available for review, to obtain an accurate and complete understanding of the coverage. Accordingly, the Commission has determined to retain the Warranty Guides unchanged.

C. Analysis of Comments on Rule 703

Thirteen (13) organizations submitted comments in response to the April 2, 1997 **Federal Register** notice.[41] The comments generally reflected strong support for the Rule 703 and indicated that the Rule is achieving the objectives it was fashioned to achieve—*i.e.,* to encourage the fair and expeditious handling of consumer disputes through the use of informal dispute settlement mechanisms.[42] Commenters pointed to the importance of Rule 703 in serving as a standard for IDSMs in general (particularly in the absence of any other standards from private or government organizations) and, more specifically, in providing a benchmark for the state lemon law IDSMs.[43] Commenters noted that, for those 45 states that incorporate Rule 703 into their lemon laws or reference the Rule in these laws, [44] Rule

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[36] NARDA at 2–3.

[37] *See,* e.g., Circuit City Stores, Inc., FTC Docket No. C–3389 (1992); Nobody Beats the Wiz, FTC Docket No. C–3329 (1991); The Good Guys, FTC Docket No. C–3388 (1992); Sears, Roebuck & Co., FTC Docket No. C–3529 (1994); Montgomery Ward & Co., FTC Docket No. C–3528 (1994); and R.H. Macy & Co., Inc., FTC Docket No. C–3115 (1994). In addition, the Commission brought an action against a mail order company which included charges that the company had violated Rule 702 *See,* Advance Watch Co., Civil Action No. 94 CV601 78AA (E.D. Mich. 1994).

[38] Interestingly, the NRF recognized the Commission's commitment to enforcing Rule 702 and asked the Commission to ''reexamine its enforcement priorities in this area.'' (NRF at 2).

[39] Section 702.3 is the core section of Rule 702 that sets out the duties of the seller and the warrantor in making warranty information available prior to sale.

[40] These publications as well as other consumer and business education brochures and other materials are available online in the *FTC Consumer Publications* and *FTC Business Publications* sections of the FTC's Home Page, located at http://www.ftc.gov/ftc/news.htm.

[41] The thirteen commenters are: (1) American Automobile Manufacturers Association (''AAMA''); (2) Association of International Automobile Manufacturers, Inc. (''AIAM''); (3) California Arbitration Review Program (''California''); (4) The CIT Group (''CIT''); (5) Consumers for Auto Reliability and Safety Foundation (''CARS''); (6) Council of Better Business Bureaus, Inc. (''BBB''); (7) Jay R. Drick, Esq. (''Drick''); (8) Manufactured Housing Institute (''MHI''); (9) Frank E. McLaughlin (''McLaughlin''); (10) National Association of Consumer Advocates (''NACA''); (11) National Consumer Law Center, Inc. (''NCLC''); (12) P.R. Nowicki & Company (''Nowicki''); and (13) Donald Lee Rome, Esq., Robinson & Cole (''Rome'').

[42] AAMA at 1; AIAM at 1; BBB at 1–2; California at 1; CARS at 2; McLaughlin at 2–3; NACA at 1; NCLC at 1; Nowicki at 2. Although not expressly endorsing retention of the present regulatory regime, three other commenters (CIT, MHI, and Rome) supported such retention by implication in suggesting modifications to the Rule which they believed would provide greater consumer protections or would reduce burdens on firms subject to the regulations. CIT, MHI, and Rome. Only one commenter (Drick) recommended that Rule 703 be rescinded, stating that the Rule serves no useful purpose since few if any programs actually operate under Rule 703. Drick at 2.

[43] AAMA at 1; BBB at 2.

[44] Many state lemon laws prohibit consumers from pursuing a state lemon law action in court

703 provides either the sole standard or a critical part of the standards that are used to determine the threshold acceptability of a dispute resolution program in accordance with state law prior resort requirements.[45] Commenters believed that the minimum standards set out in Rule 703 were developed with forethought and have withstood the test of time and usage.[46] As one commenter put it, ''Rule 703 is an integral part of a wide-ranging system of informal dispute resolution procedures * * * (which) functions smoothly and provides quick, inexpensive and informal dispute resolution.'' [47]

Commenters cautioned the Commission that rescinding the Rule would create significant problems for consumers and manufacturers because of the impact such action would have on the functioning of state lemon laws.[48] Rescission would create a vacuum in the 45 states that reference Rule 703 in their lemon laws, thus requiring massive efforts to alter existing state laws and reconfigure auto maker programs.[49] The uniformity in dispute resolution programs which Rule 703 promotes would be lost, to the detriment of consumers, warrantors, IDSMs, and state governments.[50]

Commenters generally did not think that compliance with the Rule was particularly burdensome or costly. The AAMA estimated that its three member companies pay the independent suppliers that administer their IDSMs an estimated $10 million, in addition to corporate staff support or related filing, recordkeeping or administrative costs.[51] However, other commenters noted that, except for the annual audit and specific record keeping requirements in Rule 703, most of the costs involved are the administrative costs that would be associated with the operation of any dispute resolution program.[52] The only IDSM to submit a comment was the BBB which operates the BBB AUTOLINE program. The BBB estimated that the annual costs of Rule 703's audit and record keeping requirements were less than $100,000 for the entire AUTOLINE program.[53] California stated that manufacturers have indicated that IDSM programs are a cost effective way to avoid expensive litigation and that they would continue to use these programs for warranty disputes even if not required to do so by state lemon laws.[54]

Based on its review of the comments and on its experience with the evolving area of alternative dispute resolution, the Commission has decided to retain Rule 703 unchanged. Although most commenters supported retention of Rule 703, they also recommended certain modifications that they believed would benefit consumers or reduce the burden on warrantors and IDSMs. These recommendations fall into four major categories: (1) Certification or other oversight of IDSM compliance; (2) mandatory pre-dispute arbitration clauses; (3) increasing the time limit for rendering a decision from 40 days to 60 days; (4) encouraging a mediation approach to dispute resolution; and (5) other suggested modifications (*e.g.*, allowing electronic storage of records and changing the nature of the required statistical compilations).

1. *Certification and oversight of IDSMs.* Commenters generally expressed the view that a need exists for stronger government oversight both on the federal and state levels and for increased funding to monitor IDSM and warrantor operations to ensure that their procedures comply with Rule 703.[55] However, commenters did not suggest how such increased oversight or monitoring could, as a practical matter, be achieved given the voluntary nature of the Rule. As noted, the Rule applies only to warrantors who ''give or offer to give a written warranty which incorporates an informal dispute settlement mechanism,'' [56] but few warrantors incorporate an IDSM into their warranties—*i.e.*, few include a prior resort requirement in their warranties. Therefore, there are few IDSMs that come within the ambit of the Rule's existing monitoring requirement (in § 703.7), which mandates an annual audit for compliance with the Rule.[57] The comments do not support radically revising the Rule to mandate use of IDSMs across the board, regardless of whether a warrantor incorporates an IDSM into its warranty.

Despite the fact that the Rule seldom comes into play in the manner originally contemplated (*i.e.*, by inclusion of prior resort requirements in warranties), the Rule now serves as an essential reference point for state lemon laws. Specifically, many state lemon laws, paralleling section 110(a)(3) of the Warranty Act, prohibit the consumer from pursuing any state lemon law rights in court unless the consumer first seeks a resolution of the claim to the manufacturer's (or a state-operated) IDSM.[58] Those statutes also provide that the consumer is required to use the manufacturer's IDSM *only* if it complies with the FTC's standards set out in Rule 703. Thus, in effect, these states incorporate Rule 703 into their lemon laws.[59] A threshold question for many state lemon law suits is whether the IDSM complies with Rule 703 and thus whether the consumer must use that IDSM or may proceed directly to a court action.

The problem of determining compliance is not a new one.[60] The auto manufacturers recommended nationwide certification of IDSM compliance with Rule 703, possibly through a neutral third-party organization, that would preempt state

unless the consumer first attempts to resolve the claim through the manufacturer's IDSM, *if* it complies with Rule 703.

[45] BBB at 2.

[46] McLaughlin at 2; Nowicki at 2.

[47] AIAM at 1.

[48] AIAM at 1; McLaughlin at 2–3; Nowicki at 2. As mentioned, many state lemon laws require consumers to resort to a manufacturer's IDSM before pursuing a legal remedy in court. However, the consumer is required to do so *only if* the IDSM complies with Rule 703.

[49] AIAM at 1; Nowicki at 2.

[50] McLaughlin at 2.

[51] AAMA at 2–3. Another report indicated that GM alone spent $8.4 million in 1994 on its BBB AUTOLINE program. Leslie Marable, ''Better Business Bureaus Are A Bust,'' *Money*, October 1995, p. 108, cited in Nowicki at 5, fn. 5.

[52] BBB at 3; California at 2. CARS noted that any discussion of cost burdens by the manufacturers should be viewed with skepticism since most have opted not to offer Rule 703 programs and thus they are not in a position to calculate any additional costs that a 703 program would cause them to incur. CARS at 6, 7.

[53] BBB at 3. The AAMA estimated that the annual aggregate cost for its three members to conduct the annual audits is about $160,000. AAMA at 3. (One of the three members of AAMA is General Motors, which uses the BBB AUTOLINE as its dispute resolution mechanism; thus, there may be some duplication between the BBB figures and the AAMA figures.)

[54] California at 2.

[55] CARS at 3; McLaughlin at 3–4; Nowicki at 4–5. One suggestion was to use the model of California and Florida where manufacturers pay between 25–28 cents on each car sale to fund the state lemon law programs, including the annual review of IDSM operations. Nowicki at 5. Another commenter suggested that increased warrantor and IDSM compliance might be achieved at a lower cost by establishing a voluntary offenders program similar to the Funeral Rule Offenders Program (''FROP''), which is used in conjunction with law enforcement actions under the Commission's Funeral Rule, 16 CFR part 453. McLaughlin at 4.

[56] 16 CFR 703.1(d).

[57] Nonetheless, the manufacturer IDSMs continue to submit annual audits to the FTC on a voluntary basis.

[58] ''Lemon laws'' entitle the consumer to obtain a replacement or a refund for a defective new car if the warrantor is unable to repair the car after a reasonable number of repair attempts.

[59] Some state lemon laws require that the IDSM comply with additional state standards in addition to complying with the Rule 703 provisions. For example, approximately ten states (CA, CT, FL, GA, IA, NJ, NY, OH, OR, WI) require manufacturer IDSMs to maintain state-specific records in addition to the recordkeeping requirements in Rule 703.

[60] In 1988, the auto manufacturers petitioned the Commission to initiate a rulemaking proceeding to amend Rule 703, proposing, among other things, that the Commission institute a national certification program for IDSMs in order to determine whether a specified warrantor or IDSM complies with Rule 703's standards.

certification standards.[61] The manufacturers argued that a federal certification program would be an incentive to warrantors to set up Rule 703 IDSMs because, among other benefits, it would eliminate the uncertainty of conflicting state certification standards and the risk of litigation over the issue of whether a mechanism complies with Rule 703.[62] Manufacturers further argued that not only does the lack of a national certification program lead to economic inefficiencies, but it also harms consumers by prolonging the dispute settlement process through fostering litigation over the issue of compliance.[63] The manufacturers maintained that non-uniformity in federal and state laws increases costs to warrantors, to IDSMs, and to consumers, thus frustrating the Congressional policy stated in the Warranty Act[64] of encouraging the development of IDSMs.

The Commission recognizes that a uniform certification program could possibly diminish uncertainty as to whether an IDSM complies with Rule 703 and, thus, whether the consumer must use the IDSM before pursuing a court action. Nonetheless, for the reasons stated below, the Commission has decided to reject the suggestion that it institute a national certification program.

First, it is possible that FTC certification would not eliminate an IDSM's alleged non-compliance with Rule 703 as an issue for litigation, but merely shift the focus for consumer litigants to challenge FTC certifications.[65] Such an outcome would not likely curtail the litigation that the manufacturers allege makes final resolution of disputes elusive; in fact, such a certification program might well prolong and further complicate such litigation.

Second, as a general matter, the Commission traditionally has been unwilling to commit its limited law enforcement resources to regulatory schemes that entail licensing or prior approval, such as the certification program recommended by some commenters. The Commission, moreover, would be loathe to take regulatory action likely to exert a chilling effect on competition and on experimentation by IDSMs, warrantors, and state governments in setting up and administering these programs.

Finally, were the Commission to follow some commenters' recommendation to preempt state certification standards through a federal certification program, it could jeopardize the very laws that give force to Rule 703's IDSM standards by incorporating them into state lemon law statutory schemes. For these reasons, the Commission has determined not to undertake a national certification program for IDSMs.

2. *Binding arbitration clauses.* Two commenters urged that the Rule be amended to permit mandatory binding arbitration clauses in consumer contracts,[66] while comments from two consumer advocacy groups (NACA and NCLC) urged the Commission to continue the Rule's current prohibition against binding arbitration.[67] NACA and NCLC pointed to the increased use by corporations of mandatory binding arbitration clauses in standard form contracts with consumers. They expressed the belief that the use of binding arbitration is more favorable to institutional interests than to the consumer and that it provides the corporation with a way to avoid class actions, punitive damage awards, attorney fee awards, discovery, and juries.[68] NACA and NCLC indicated that the use of mandatory binding arbitration clauses is expanding in the securities, credit, and health care industries and expressed the fear that, without the protection of Rule 703 in its current form, warrantors may begin to require mandatory binding arbitration as a precondition of warranty coverage on consumer products.

The Commission examined the legality and the merits of mandatory binding arbitration clauses in written consumer product warranties when it promulgated Rule 703 in 1975. Although several industry representatives at that time had recommended that the Rule allow warrantors to require consumers to submit to binding arbitration, the Commission rejected that view as being contrary to the Congressional intent.

The Commission based this decision on its analysis of the plain language of the Warranty Act. Section 110(a)(3) of the Warranty Act provides that if a warrantor establishes an IDSM that complies with Rule 703 and incorporates that IDSM in its written consumer product warranty, then ''(t)he consumer may not commence a civil action (other than a class action) * * * *unless he initially resorts to such procedure*.'' (Emphasis added.) This language clearly implies that a mechanism's decision cannot be legally binding, because if it were, it would bar later court action. The House Report supports this interpretation by stating that ''(a)n adverse decision in any informal dispute settlement proceeding would not be a bar to a civil action on the warranty involved in the proceeding.'' [69] In summarizing its position at the time Rule 703 was adopted, the Commission stated:

> The Rule does not allow (binding arbitration) for two reasons. First * * * Congressional intent was that decisions of section 110 Mechanisms not be legally binding. Second, even if binding Mechanisms were contemplated by section 110 of the Act, the Commission is not prepared, at this point in time, to develop guidelines for a system in which consumers would commit themselves, at the time of product purchase, to resolve any difficulties in a binding, but nonjudicial proceeding. *The Commission is not now convinced that any guidelines which it set out could ensure sufficient protection for consumers.* (Emphasis added.)[70]

Based on its analysis, the Commission determined that ''reference within the written warranty to any binding, non-judicial remedy is prohibited by the Rule and the Act.'' [71] The Commission believes that this interpretation continues to be correct.[72] Therefore, the Commission has determined not to amend § 703.5(j) to allow for binding arbitration. Rule 703 will continue to prohibit warrantors from including

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[61] *See, generally,* AAMA and AIAM.

[62] AAMA at 2, 5–6; AIAM at 2.

[63] AAMA at 2. No data was supplied as to the actual number of cases in which compliance with Rule 703 is litigated.

[64] 15 U.S.C. 2310(a)(1).

[65] Conceivably, auto manufacturer litigants also might challenge the denial of certification.

[66] MHI and CIT proposed a ''streamlined'' warranty dispute resolution process when the dispute is related to manufactured homes. Among other characteristics of such a process, MHI recommended that the process allow the decision of the IDSM to be binding on the parties.

[67] *See, generally,* NACA and NCLC. Section 703.5(j) of the Rule states that the informal dispute settlement procedure *cannot* be legally binding on any person.

[68] NACA at 1–2; NCLC at 2–3.

[69] House Report (to accompany H.R. 7917), H. Report, No. 93–1107, 93d Cong., 2d Sess. (1974), at 41.

[70] 40 FR 60168, 60210 (1975). The Commission noted, however, that warrantors are not precluded from offering a binding arbitration option to consumers *after* a warranty dispute has arisen. 40 FR 60168, 60211 (1975).

[71] 40 FR 60168, 60211 (1975).

[72] At least one federal district court has upheld the Commission's position that the Warranty Act does not intend for warrantors to include binding arbitration clauses in written warranties on consumer products. *Wilson* v. *Waverlee Homes, Inc.*, 954 F. Supp. 1530 (M.D. Ala. 1997). The court ruled that a mobile home warrantor could not require consumers to submit their warranty dispute to binding arbitration based on the arbitration clauses in the installment sales and financing contracts between the consumers and the dealer who sold them the mobile home. The court noted that a contrary result would enable warrantors and the retailers selling their products to avoid the requirements of the Warranty Act simply by inserting binding arbitration clauses in sales contracts. *Id.* at 1539–1540.

binding arbitration clauses in their contracts with consumers that would require consumers to submit warranty disputes to binding arbitration.

3. *Increase time limit for rendering a decision from 40 days to 60 days.* The BBB recommended that the time limit for rendering a decision be increased from 40 days to 60 days, at least for those dispute resolution programs that provide for oral hearings.[73] The BBB stated that BBB and State experience with arbitration programs indicates that time requirements should be more flexible in order to provide for an arbitration hearing, and notes that several states with state-run programs (*e.g.*, Florida, Connecticut, and Texas) allow for a 60-day time period to render decisions.[74]

The BBB argued that the 40-day time frame set by Rule 703 may work to the detriment of consumers because the BBB is often unable to accommodate consumer requests for delay or postponement of hearings because the Rule requires that disputes be resolved within 40 days. Furthermore, the BBB maintained that the 40-day time period often constrains their efforts to mediate disputes for those consumers who prefer a mediated resolution rather than the more formal arbitration process that Rule 703 sets forth.

When the Rule was promulgated in 1975, the Commission received many comments on its proposal that decisions must be rendered within 40 days. Many consumer commenters believed that 40 days was too long to wait when there is a malfunctioning product, while industry comments generally took the position that the time limit was too short.[75]

The goal of encouraging fair and expeditious informal handling of consumer warranty disputes remains an important step in providing consumers a means to obtain relief for defective products. The Commission's intent in promulgating the requirements set out in Rule 703 was to avoid creating artificial or unnecessary procedural burdens so long as the basic goals of speed, fairness, and independent participation are met.[76] The Commission is concerned that by the time a dispute has ripened to referral to an IDSM the consumer in many cases has already had to contend with a defective product for a protracted period. The Commission is concerned that any period longer than 40 days would, in many cases, serve only to wear down consumers so they will abandon their attempts to obtain redress. In the absence of firmer evidence to the contrary, the Commission believes that the 40-day time period, on balance, is beneficial to consumers most in need of an IDSM remedy. The Commission believes that the 40-day time limit should remain in effect.

4. *Encourage the use of a mediation approach to settling disputes.* Two commenters sounded the theme that warrantors, consumers, and IDSMs need flexibility to fashion dispute resolution procedures using mediation and other forms of alternative dispute resolution mechanisms so disputes can be resolved in an expeditious and cost effective manner.[77] MHI recommended that mediation be allowed in addition to, or in lieu of, arbitration.[78] Donald Rome recommended that the Rule encourage mediation as an approach to facilitate the early resolution of warranty disputes in a manner that would better meet the needs and expectations of consumers than more formal arbitration proceedings.[79]

The Commission supports the use of mediation to achieve a mutually-agreed-upon settlement among the parties to the dispute prior to initiating the more formal arbitration process outlined in the Rule. Indeed, § 703.5(d) itself implies that there will be ongoing attempts to settle the dispute short of having the decision maker render a decision.

> *If the dispute has not been settled,* the Mechanism shall, as expeditiously as possible, but at least within 40 days of notification of the dispute * * * render a fair decision. (Emphasis added.)

The Commission has made clear, however, that the use of mediation must not impede those consumers who wish to pursue a remedy through other avenues (*e.g.*, arbitration and litigation). Those avenues must be readily accessible if mediation does not produce a satisfactory resolution of the dispute. In addition, consumers must not be obligated to use mediation *instead* of the Rule 703 arbitration process, nor should they be pressured into accepting a settlement that is unsatisfactory to them. The Commission articulated its position on this subject in 1984 when it granted limited exemptions from Rule 703, for a two-year trial period, to the BBB, the Chrysler Customer Arbitration Board, the Automotive Consumer Action Panel, and the Ford Consumer Appeals Board programs.[80] The exemptions suspended the 40-day time limit and extended the Rule's time limit for arbitration decisions to 60 days in order to allow the programs up to 20 days to pursue mediation prior to conducting arbitration. In granting the exemption, however, the Commission imposed three conditions to ensure that consumers retained control over the speed of the process.

(1) The mediation process must be optional. Consumers should not be required to participate in mediation and must be allowed to terminate mediation at any time during the process and still obtain a decision from the IDSM.

(2) As soon as the consumer notifies the IDSM that he or she elects to terminate mediation and begin the arbitration process, the IDSM must render a decision within 40 days of that notification, or within 60 days of the date on which the IDSM first received notification of the dispute, whichever is less.

(3) The above two conditions must be disclosed clearly and conspicuously to the consumer after the mechanism has received notice of the dispute and prior to beginning the arbitration process.

The Commission believed that these conditions would ensure that consumers would not lose any of their protections under Rule 703 for a speedy and fair resolution of their warranty disputes. Consumers would retain control over which approach (mediation and/or arbitration) they wished to use and also would control the speed of the process.

The Commission continues to believe that mediation's informality, flexibility, and emphasis on the particular needs of

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[73] BBB at 2.

[74] BBB at 2. Twelve states offer consumers the opportunity to use a state-run arbitration program in addition to, or in lieu of, a manufacturer-sponsored IDSM. Although those states require that the manufacturer-sponsored IDSM comply with Rule 703's 40-day requirement, ten of them allow their state-run panels longer than 40 days to render a decision. The time limits for state-run panels in those twelve states are as follows: **40 days:** NJ, NY; **45 days:** HI, ME, MA. The remaining states require decisions within 50–150 days: **50 days:** VT (30 days to hold hearing and 20 days thereafter to render decision); **60 days:** CT, FL; **70 days:** NH (40 days to hold hearing and 30 days thereafter to render decision) and WA (10 days to forward application to Board, 45 days thereafter to hold hearing, and 15 days after hearing to render decision); **150 days:** TX (60 days to render decision after hearing; if process not completed within 150 days of date consumer application and fee received, consumer can go into court); **no stated time limit:** GA.

[75] 40 FR 60168, 60208. Consumer witnesses recommended a time period of 10 to 30 days, while industry recommended a 90-day limit.

[76] 40 FR 60168, 60193.

[77] *See,* Rome; MHI.

[78] MHI, Appendix A at 3.

[79] *See, generally,* Rome.

[80] 49 FR 28397 (July 12, 1984) (Approval of Exemption for BBB, Chrysler, and Automotive Consumer Action Panel); and 50 FR 27936 (July 9, 1985) (Approval of Exemption for Ford Consumer Appeals Board). These programs did not renew their requests for exemptions after the two-year trial period ended.

disputing parties makes it a useful tool in achieving a fair and expeditious resolution of consumer product warranty disputes. However, the Commission does not believe that it is necessary to amend the Rule to specifically encourage the use of mediation since the Rule's provisions already allow for such settlements before a decision is rendered.

5. *Other recommendations.*

a. Changes in technology. The BBB notes that it is implementing an electronic document management system that will enable all case records and documents to be stored as electronic images. The BBB asks that Rule 703 be updated to specifically provide for storage of records as electronic images. [81]

As the BBB notes, Rule 703's recordkeeping requirements do not mandate the form in which records are stored. There is nothing in the Rule to prohibit the use of electronic storage or any other new technology, as long as the IDSM can meet its obligations under the Rule to allow public inspection and copying of the statistical summaries and other public records, to allow parties to the dispute to access and copy the records relating to the dispute, and to allow an annual audit of the IDSM's operations. It is not the Commission's intention that the Rule be interpreted to restrict to antiquated technological methods the form or format of records required to be kept under the Rule.

b. Changing the type of required statistical analyses. One commenter (Nowicki) recommends that § 703.6(e) be abolished. [82] Section 703.6(e) requires the IDSM to maintain certain statistical compilations, including the number and percent of disputes resolved or decided and whether the warrantor has complied; the number of decisions adverse to the consumer; and the number of decisions delayed beyond 40 days and the reasons for the delay. Mr. Nowicki argues that the categories of statistical compilations the mechanism must maintain are ''either moot, nebulous, or even worse, misleading and deceptive.''

Mr. Nowicki maintains, for example, that the statistical compilations underreport the number of decisions that are not resolved within 40 days because many manufacturer IDSMs assign a new file each time a consumer files a complaint, even if the consumer previously had filed a complaint for the same vehicle and the same problem. Thus, if a consumer was awarded an interim repair and refiles because the repairs did not cure the problem, the refiling is assigned a new case number and triggers a new 40-day time period. Mr. Nowicki believes the statistics would be more meaningful if they tracked the entire process of resolving the consumer's complaint about a particular vehicle, regardless of how many times the consumer refiles. Similarly, he maintains that the statistical compilations understate the level of compliance by warrantors with settlements and decisions and that the category that reports the number of ''adverse decisions'' under reports the number of consumers who are not awarded the relief they sought (*e.g.*, the consumer is awarded further repairs instead of a replacement).

The Commission appreciates that the statistical compilations required by § 703.6(e) cannot provide an in-depth picture of the workings of a particular IDSM. However, the statistics were not intended to serve that function. The statistical compilations attempt to provide a basis for minimal review by the interested parties to determine whether the IDSM program is working fairly and expeditiously. Based on that review, a more detailed investigation could then be prompted. In addition, in adopting the recordkeeping requirements, the Commission was mindful that substantial recordkeeping costs might dissuade the establishment of IDSMs. Therefore, the Commission sought to minimize the costs of the recordkeeping burden on the IDSM while ensuring that sufficient information was available to the public to provide a minimal review. The Commission does not believe that there is sufficient record evidence to prompt changes in the statistical compilations required under § 703.6(e). Accordingly, the Commission has determined to retain § 703.6(e) unchanged.

D. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act provides for analysis of the potential impact on small businesses of Rules proposed by federal agencies. (5 U.S.C. 603, 604). Rules 701 and 702 are the only warranty-related matters currently under review that require such an analysis. [83] In 1987, the Commission conducted a Regulatory Flexibility Act analysis of Rule 702 in connection with its amendment of that Rule. *See* 52 FR 7569. The April 3, 1996 request for comment was the first review of Rule 701 since it was promulgated in 1975 and thus presented the first opportunity to conduct such an analysis for that Rule. Therefore, the April 3 notice included questions to elicit the necessary information.

The Commission believes that a very high percentage of businesses subject to Rule 701 are ''small'' based on Small Business Administration size standards. Unfortunately, the available data do not provide a precise measurement of the impact Rule 701 has had on small businesses nor the economic impact that would result from leaving the Rule unchanged.

For example, in the regulatory analysis conducted for Rule 702, the Commission's investigation found that nearly all the manufacturers (11,365 companies or 97 percent) and nearly all retailers (952,916 companies or 99.3 percent) affected by Rule 702 were considered ''small'' using the size standards promulgated by the Small Business Administration. That investigation indicated that, if the companies were compared according to annual receipts, small retailers would represent about 47 percent and small manufacturers about 23 percent of the gross annual receipts in their respective industries.

In 1984, the FTC's Office of Impact Evaluation issued a study evaluating the Impact of the Warranty Rules (Market Facts, *Warranty Rules Consumer Follow-Up: Evaluation Study. Final Report*, Washington, DC, July 1984 (''the Study'')). The Study found that some type of warranty was offered for 87 percent of the consumer products surveyed. Of those warranted products, almost 63 percent carried only a manufacturer's warranty, about 12 percent were warranted only by the retailer, and about 13 percent were covered by both a manufacturer's and a retailer's warranty. Thus, the costs of Rule 701 would appear to fall principally on manufacturers, since those entities are more likely to provide a written warranty. However, it is unknown how many of those manufacturers or retailers who give written warranties are also small entities.

Much of the burden imposed on business by Rule 701 is statutorily imposed. Section 102 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.*, requires warrantors who use written warranties to disclose fully and conspicuously the terms and conditions of the warranty. The Act lists a number of items that may be included in any

[81] BBB at 4.

[82] Nowicki at 3–4.

[83] Rule 703 does not require a Regulatory Flexibility Act analysis because the only entities affected by the requirements of Rule 703 are those warrantors and IDSMs who purport to follow Rule 703 standards (the auto manufacturers and their IDSM programs). Currently, none of those entities fall within the definition of ''small'' based on Small Business Administration size standards. Therefore, Rule 703 does not appear to have a significant effect on a substantial number of small entities.

rules requiring disclosure that the Commission might prescribe, and, in Rule 701, the Commission tracked those items. Nonetheless, in promulgating the Rule, the Commission attempted to comply with the Congressional mandate in Section 102 of the Act while minimizing the economic impact on affected businesses. For example, the Commission limited the disclosure requirements to warranties on consumer products actually costing the consumer more than $15.00. Furthermore, the Commission exempted ''seal of approval'' programs from providing the disclosures on the actual seal.

The comments provided some indication that the Commission succeeded in drafting the Rule so as not to make it unduly burdensome to business. The comments from AAMA and NAIMA indicate that Rule 701 is not unreasonably costly to warrantors. These two commenters indicated that the system is working well. The AAMA stated that the current system is working well and is not unreasonably costly to warrantors: The Rules are workable and understood by industry and that there is no evidence that the adequacy of warranty disclosure nor that the legal sufficiency of the warranties given is a major source of complaints, nor is there evidence that customers are unaware of their warranty rights. The AAMA stated ''As presently structured, these Rules are workable and effective, and permit warrantor compliance without unreasonable expense.'' [84]

The NAIMA echoed AAMA's opinion. NAIMA indicated that the costs of the warranty regulations are not imposed upon businesses by government, but rather are voluntarily assumed by companies that choose to offer written warranties. As such, NAIMA states that ''any cost incurred by a firm would be calculated into a business decision to offer a warranty or guarantee and should not be weighed as a factor to eliminate or diminish the requirement.'' [85]

The other commenters were silent as to the effects of Rule 701 on small businesses. Therefore, based on the information available, the Commission has determined that, to the extent that Rule 701's requirements are not Congressionally mandated, the current version of Rule 701 does not unduly burden small businesses.

List of Subjects in 16 CFR Parts 239, 700, 701, 702, and 703.

Warranties, advertising, dispute resolution, trade practices.

Authority: 15 U.S.C. 41–58.

[84] AAMA at 2.

[85] NAIMA at 3.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–9841 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5 and 31

Fees for Applications for Contract Market Designation, Audits of Leverage Transaction Merchants, and Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Associations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final schedule of fees.

SUMMARY: The Commission periodically adjusts fees charged for certain program services to assure that they stay in line with current Commission costs. In this regard, the staff recently reviewed the Commission's actual costs of processing applications for contract market designations (17 CFR Part 5, Appendix B), audits of leverage transactions merchants (17 CFR Part 31, Appendix B) and reviews of the rule enforcement programs of contract markets and registered futures associations (17 CFR Part 1, Appendix B). As a result of this review, the Commission is adopting final fees for applications for contract market designation for a futures contract, submitted to the Commission for review and approval by contract markets, which will be reduced from $7,900 to $6,800; contract market designation for an option contract which will be reduced from $1,600 to $1,200; and simultaneous applications for contract market designation for a futures contract and an option on that futures contract, which will be reduced from a combined fee of $8,500 to a combined fee of $7,500.

In addition, the Commission is adopting the final fees for 1999 for the Commission's review of the rule enforcement program at the registered futures association and the contract markets regulated by the Commission as described under **SUPPLEMENTARY INFORMATION.**

Finally, the Commission is eliminating the list of fees for audits of leverage transaction merchants because there have been no leverage transaction merchants registered with the Commission for a number of years and none is expected to register in the near future.

DATES: The fee schedule for reviews of the programs of listed contract markets and the registered futures association must be paid by the named entities no later than June 21, 1999. The reduced fee for filing futures and option contracts singly or simultaneously is effective April 22, 1999. The list of fees for audits of Leverage Transaction Merchants is no longer provided upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Donald L. Tendick, Office of the Executive Director, (202) 418–5160, Paul Bjarnason, Division of Trading and Markets, (202) 418–5459, or Richard Shilts, Division of Economic Analysis, (202) 418–5275, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION

I. Computation of Fees

The Commission has established fees for certain activities and functions it performs, including processing applications for contract market designation and performing reviews of the rule enforcement programs of contract markets and the registered futures association.[1] The starting point for the determination of all fees, including both contract market designations and reviews of rule enforcement programs, is the average of the previous three years' actual costs incurred for each of the above-mentioned activities. However, as explained below in section II, all contract markets pay a uniform fee for filing applications with the Commission for the designation of new contracts. With respect to the Commission's review of programs of rule enforcement, a unique fee is assessed each entity, based upon the actual costs of the particular review conducted at each entity. The costs of performing a rule enforcement review at a contract market or registered futures association vary according to the size and complexity of the entity's program. To ensure that high fees do not unduly burden small exchanges, the Commission's formula provides for some reduction in the fee assessed, as explained in section II below.

Actual costs include the direct salaries of the personnel assigned to each activity plus overhead. The overhead added to the direct salary costs is based upon various indirect costs including: indirect personnel costs (leave and benefits), rent, communications, travel/transportation, contract services, utilities, equipment

[1] See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701.

and supplies. All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system, which is an agency-wide time accounting system. Overhead is calculated according to a government-wide standard established by the Office of Management and Budget. The overhead rate applied usually differs each year due to fluctuations in the component costs included in overhead. The overhead rate for fiscal year 1996 was 98%, for fiscal year 1997 was 91% and for fiscal year 1998 was 104% (rounded to nearest whole percent). As stated above, once the total direct personnel costs for each fee item have been determined for each year, the overhead factor for that year is applied, and the three-year costs are averaged. The three-year annual average of costs is used to compute the fee schedule amounts, as explained in detail below.

II. Applications for Contract Market Designation

A. History

On August 23, 1983, the Commission established a fee for contract market designation (48 FR 38214). The fee was based upon a three-year moving average of the actual costs and the number of contracts, reviewed by the Commission during that period of time. The formula for determining the fee was revised in 1985. At that time, most of designation applications were for futures contracts as opposed to option contracts, and the same fee was applied to both futures and option designation applications.

In 1992, the Commission reviewed its data on the actual costs for reviewing designation applications for both futures and option contracts and determined that the cost of reviewing a futures contract designation application was much higher than the cost of reviewing an option contract designation. It also determined that, when designation applications for both a futures contract and an option on that futures contract were submitted simultaneously, the cost for reviewing both together was lower than for reviewing the contracts separately. Based upon that finding, three separate fees were established—one for futures alone, one for options alone, and one for combined futures and option contract applications (57 FR 1372). The combined futures/option designation application fee is set at a level that is less than the aggregate fee for separate futures and option applications to reflect the fact that the cost for review of an option is lower when submitted simultaneously with the underlying future and to create an incentive for contract markets to submit simultaneously applications for futures and options on that future.

B. Fees for Applications for Contract Market Designation

The Commission staff reviewed the actual costs of processing applications for contract market designation for a futures contract for fiscal years 1996, 1997 and 1998 and found that the average cost over the three-year period was $6,810 per contract. The review of actual costs of processing applications for contract market designation for an option contract for fiscal years 1996, 1997 and 1998 revealed that the average cost over the same period was $1,268 per contract. Accordingly, the Commission has determined that the final fee for applications for contract market designations as a futures contract will be reduced to $6,800, and the final fee for applications for contract market designation as an option contract will be reduced to $1,200 in accordance with the Commission's regulations (17 CFR Part 5, Appendix B). In addition, the final combined fee for contract markets simultaneously submitting designation applications for a futures contract and an option contract on that futures contract will be reduced to $7,500 per combined filing.

The fee for futures contract applications also applies to options on physicals applications. Because the requirements for designation of an option on a physical are substantially identical to those of futures contracts, the same fee will apply to both types of filings.[2]

The Commission is also today publishing separately in the **Federal Register** a proposal to establish reduced fees for a limited class of simultaneously submitted multiple contract market designation application filings.

III. Rule Enforcement Reviews of Contract Markets and Registered Futures Associations

Under the formula adopted in 1993 (58 FR 42643 (August 11, 1993), which appears in 17 CFR Part 1, Appendix B), the Commission calculates the fee for its review of rule enforcement programs based on its actual costs. The Commission has provided for a downward adjustment to reduce an exchange's fee below actual costs if actual costs (as a percentage of total rule enforcement review program costs) are greater for the particular exchange than that exchange's pro-rata portion of contracts traded industry-wide (total contract volume for the exchange as a percentage of total U.S. futures industry contract volume). As noted above, this feature of the formula generally reduces the fee burden on the smaller exchanges.

Specifically, the fee required of each contract market is equal to the lesser of: average annual costs based upon the three-year historical average of costs for that contract market or one-half the average annual costs incurred by the Commission pertaining to each contract market for the most recent three-years, plus a pro-rata share (based upon average trading volume for the most recent three years) of the aggregate of average annual costs of all the contract markets for the most recent three years. The formula for calculating the second factor mentioned above is 0.5a + 0.5vt = current fee. In the formula, ''a'' equals the average annual costs, ''v'' equals the percentage of total volume across exchanges over the last three years and ''t'' equals the average annual cost for all exchanges. The one registered futures association regulated by the Commission, National Futures Association (NFA), has no contracts traded, and thus, NFA's fee is based simply on the average costs for the most recent three fiscal years.

Following is a summary of data used in the calculations and the resultant fee for each entity:

	3-year average annual costs	3-year average percentage of volume	1999 fee amount
Chicago Board of Trade	$259,841	46.0317	$259,841
Chicago Mercantile Exchange	228,215	35,6595	228,215
New York Mercantile Exchange	204,627	15.1517	174,062
Coffee, Sugar & Cocoa Exchange	66,814	2.2468	44,046

[2] In this regard, under the Commission's Guideline No. 1, which details the information an application for contract market designation must include, all of the requirements for futures contract applications (whether providing for physical delivery or cash settlement) also apply to options on physicals applications, plus several additional requirements that apply uniquely to options. See, for example, 63 FR 38537, July 17, 1998.

	3-year average annual costs	3-year average percentage of volume	1999 fee amount
New York Cotton Exchange	155,338	1,2997	83,824
Kansas City Board of Trade	15,055	0.4074	9,457
Minneapolis Grain Exchange	16,558	0.1979	9,216
Philadelphia Board of Trade	624	0.0054	338
Subtotal	947,072	100.0000	808,999
National Futures Association	327,551	N/A	327,551
Total	1,274,624	100,0000	1,136,550

Below is an example of how the fee was calculated for one exchange, the Minneapolis Grain Exchange:

(i) Average annual costs are $16,558;

(ii) Alternative computation is:

(.5)($16,558) + (.5)(.1979%) (947,042) = $8,279 + $937 = *$9,216*

(iii) The fee is the lesser of (i) and (ii) = $9,216.

As noted above, NFA, a registered futures association, has no contracts and, therefore, is billed for average annual costs. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 1996 through 1998 was $327,551 (⅓ of $982,654). Therefore, the fee to be paid by NFA pertaining to fiscal year 1998 is $327, 551.

Issued in Washington, D.C. on April 15, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–9939 Filed 4–21–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF STATE

22 CFR Parts 50 and 51

[Public Notice 3027]

Nationality Procedures—Report of Birth Regulation; Passport Procedures—Revocation or Restriction of Passports Regulation

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: This rule finalizes the proposed rule published February 5, 1999 (64 FR 5725) and implements sections of the Immigration and Nationality Technical Corrections Act of 1994 (INTCA). The INTCA added new grounds for denying, revoking or canceling a passport, and for canceling a Consular Report of Birth. The rule authorizes the cancellation of a Consular Report of Birth, or a certification thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. It also amends the existing regulation to authorize the cancellation of a United States passport when a person has obtained a United States passport illegally or erroneously, or when the Department of State has been notified that a naturalized person whose order of admission to citizenship and certificate of naturalization, on the basis of which the passport was issued, have been canceled or set aside as the result of a judicial denaturalization procedure.

Finally, the rule amends regulations by replacing the procedures for appeal of adverse passport action. Other agency regulations contain provisions for the organization and operation of the Board of Appellate Appeal of the Department of State. Under this rule, the Board of Appellate Review no longer has jurisdiction to consider appeals from adverse passport actions. The decision of the Deputy Assistant Secretary of State for Passport Services is final.

EFFECTIVE DATE: April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon E. Palmer-Royston, Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, U.S. Department of State, 1111 19th Street, N.W., Suite 260, Washington, D.C. 20524 (202) 955–0231.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule, Public Notice 2961 at 64 FR 5725, February 5, 1999, with a request for comments, for numerous sections of Title 22, Parts 50 and 51 of the Code of Federal Regulations. The rule was primarily proposed to implement provisions of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103–416 (INTCA), though it also makes a procedural change for appeal of adverse passport action. The rule was discussed in detail in Public Notice 2961, as were the Department's reasons for the changes to the regulations. The rules incorporate changes to those sections in Parts 50 and 51 explained below.

A passport when issued for its full validity period and a ''Report of Birth Abroad of a Citizen of the United States'', issued by a consular officer to document a citizen born abroad, are documents established as proof of United States citizenship by the provisions of section 33 of the Department of State Basic Authorities Act of 1956, as amended (22 U.S.C. 2705). 8 U.S.C. 1504 (108 Stat. 4309, October 25, 1994) authorizes the Secretary of State to cancel either of these documents if it appears that they were obtained illegally, fraudulently or erroneously. The rule amends the regulations by providing for a post-cancellation hearing when a Consular Report of Birth, or certification thereof, is canceled. The provisions of 22 CFR 51.75 already provide for notification in writing of the reasons for the revocation and of the procedures for review to any person who is the subject of a passport cancellation and revocation on the grounds, among others, that the passport was obtained illegally, fraudulently or erroneously. Procedures for review include a hearing available under subsections 51.80 through 51.89 of the passport regulations in 22 CFR part 51. Such a hearing concerns only the extent to which the passport was illegally, fraudulently or erroneously obtained and not the citizenship status of the person in whose name the document was issued.

A district court of the United States may denaturalize an individual in a judicial proceeding on the grounds that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation. Any person who is the subject of a passport revocation due to judicial denaturalization, *i.e.*, by reason of noncitizenship, is not entitled to a hearing by the Department of State, pursuant to the provisions in 22 CFR 51.80(a).

The Board of Appellate Review of the Department of State has had jurisdiction to consider appeals from decisions of

the Office of Passport Services that constitute adverse action affecting a passport: denial, revocation, or limitation. This jurisdiction has been infrequently utilized, and an adverse action can be reviewed fairly and efficiently without the same kind of administrative hearing that the Board conducts in loss of nationality cases. Changes in the applicable laws, their interpretation, and practice thereunder now make it even more unlikely that administrative appeals will be taken. Accordingly, 22 CFR part 7 is being amended by eliminating this particular administrative appeal jurisdiction. This amendment to 22 CFR part 51, Subpart F, reflects that change and replaces an appeal with a request for reconsideration.

In current practice, the most common adverse passport action is denial or revocation based upon grounds set forth in 22 CFR section 51.70(a), such as being subject to a Federal warrant of arrest or being under court ordered restraint. In these cases, the Board of Appellate Review or other appellate body within the Department of State has no authority to affect the underlying ground for adverse passport action, so that this rule results in no change in existing practice. Similarly, passport denial or revocation as set forth in 22 CFR subsection 51.70(b)(4), the Secretary of State's determination that activities of the affected national abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States, has not been delegated by the Secretary and is not subject to subordinate review.

Accordingly, the findings of fact and recommendations resulting from a hearing before a hearing officer are referred to the Deputy Assistant Secretary for Passport Services for decision instead of to the Assistant Secretary for Consular Affairs. The rule permits the adversely affected person to request reconsideration by the Deputy Assistant Secretary, but the initial decision or the decision based upon request for reconsideration, as the case may be, is final.

The rule also amends 22 CFR section 51.84 by substituting a more general statement of legal qualifications for representatives for the current reference to the qualification set by the Board of Appellate Review.

Finally, the rule makes clear that nothing in revised 22 CFR section 51.89 bars an adversely affected person from submitting a new passport application as provided for in 22 CFR part 51, Subparts B through D.

Analysis of Comments

The proposed rule was published February 5, 1999 at 64 FR 5725. The commenting period was closed March 8, 1999. The Department received one inquiry that concerned the change in regulations to replace the procedures for appeal of adverse passport action. The inquirer was concerned that eliminating jurisdiction for the Board of Appellate Review to consider appeals from adverse passport actions would deny procedural due process where the adverse action was taken on grounds of noncitizenship. However, a person who has been denied a passport on grounds that they are not a national of the United States may seek a declaration of their nationality in U.S. district court pursuant to the provisions of 8 U.S.C. 1503(a).

Final rule

This rule is not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule imposes no reporting or recordkeeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule has been reviewed as required by E.O. 12988 and determined to be in compliance therewith. This rule is exempted from E.O. 12866 but has been reviewed and found to be consistent therewith. The proposed rule was submitted for review in accordance with 5 U.S.C. 801 *et seq.*, as amended.

List of Subjects

22 CFR Part 50

Citizenship and Naturalization.

22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, 22 CFR Parts 50 and 51 are amended as follows:

PART 50—NATIONALITY PROCEDURES

1. The authority citation for Part 50 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1502, 1503 and 1504.

2. Section 50.7 is amended by adding a new paragraph (d) as follows:

§ 50.7 Consular Report of Birth Abroad of a Citizen of the United States of America.

* * * * *

(d) A consular report of birth, or a certification thereof, may be canceled if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. The cancellation under this paragraph of such a document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. A person for or to whom such document has been issued or made shall be given at such person's last known address, written notice of the cancellation of such document, together with the specific reasons for the cancellation and the procedures for review available under the provisions in 22 CFR 51.81 through 51.89.

PART 51—PASSPORTS

1. The authority citation for Part 51 is revised to read as follows:

Authority: 22 U.S.C. 211a; 22 U.S.C. 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p 570; sec. 129, Pub. L. 102–138, 105 Stat. 661; 8 U.S.C. 1504.

2. Section 51.72 is amended by revising paragraph (b) and adding paragraph (c) as follows:

§ 51.72 Revocation or restriction of passports.

* * * * *

(b) The passport has been obtained illegally, by fraud, or has been fraudulently altered, or has been fraudulently misused, or has been issued in error; or

(c) The Department of State is notified that a certificate of naturalization issued to the applicant for or bearer of the passport has been canceled by a federal court.

3. Section 51.80 is revised to read as follows:

§ 51.80 Applicability of §§ 51.81 through 51.89.

(a) The provisions of §§ 51.81 through 51.89 apply to any action of the Secretary taken on an individual basis in denying, restricting, revoking or invalidating a passport or a Consular Report of Birth, or in any other way adversely affecting the ability of a person to receive or use a passport except action taken by reason of:

(1) Noncitizenship,

(2) Refusal under the provisions of § 51.70(a)(8),

(3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under §§ 51.70, 51.71 or 51.72.

§ 51.83 [Amended]

5. Section 51.83 is amended by revising the phrase ''Administrator of'' to read ''Deputy Assistant Secretary for Passport Services in'' and by removing ''Security and''.

§ 51.84 [Amended]

6. Section 51.84 is amended by revising the phrase ''must possess the qualifications prescribed for practice before the Board of Appellate Review'' to read ''must be admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the United States''.

7. Section 51.89 is revised to read as follows:

§ 51.89 Decision of Deputy Assistant Secretary for Passport Services.

The person adversely affected shall be promptly notified in writing of the decision of the Deputy Assistant Secretary for Passport Services, and, if the decision is adverse to that person, the notification shall state the reasons for the decision. The notification shall also state that the adversely affected person may request reconsideration within 60 days from the date of the notice of the adverse action. If no request is made within that period, the decision is considered final and not subject to further administrative review; a decision on a request for reconsideration is also administratively final. Nothing in this section, however, shall be considered to bar the adversely affect person from submitting a new passport application as provided for in subparts B through D of this part.

Dated: April 9, 1999.

Donna J. Hamilton,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 99–10116 Filed 4–21–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–021]

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations at 33 CFR 100.511 during the Blue Angels Airshow, an aerial demonstration to be held May 23 and 24, 1999, over the waters of Spa Creek and the Severn River, near the U.S. Naval Academy, Annapolis, Maryland. These Special local regulations are necessary to control vessel traffic in the vicinity of the U.S. Naval Academy due to the confined nature of the waterway and expected vessel congestion during the airshow. The effect will be to restrict general navigation in the regulated area for the safety of spectators and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.511 is effective from 10:30 a.m. to 4 p.m. on May 23, 1999 and from 12 noon to 4:00 p.m. on May 24, 1999.

FOR FURTHER INFORMATION CONTACT:

Chief Warrant Officer R.L. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, (410) 576–2674.

SUPPLEMENTARY INFORMATION: The U.S. Naval Academy will sponsor the Blue Angels Airshow over the Severn River near the U.S. Naval Academy, Annapolis, Maryland. The event will consist of 6 high performance jet aircraft flying at low altitudes in formation over the Severn River. Therefore, to ensure the safety of spectators and transiting vessels, 33 CFR 100.511 will be in effect for the duration of the event. Under provisions of 33 CFR 100.511, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: April 6, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99–10111 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–98–162]

RIN 2115–AE46

Special Local Regulations: Empire State Regatta, Albany, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the Special Local Regulations for the Empire State Regatta. This action is necessary to update the course location and effective period for this annual event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

DATES: This final rule is effective May 24, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, between 8 .am. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4193.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4193.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 4, 1999, The Coast Guard published a notice of proposed rulemaking, entitled Special Local Regulations: Empire State Regatta, Albany, New York in the **Federal Register** (64 FR 66). The Coast Guard did not receive any letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Albany Rowing Center sponsors this annual crewing race with approximately 300 rowers competing in this event. The sponsor expects no spectator craft for this event. The race will take place on the Hudson River in the vicinity of Albany, New York. The sponsor held the race in a new location

in 1998 and is planning on holding the event in this new location in the future. This new course provides better viewing for spectators on shore, and it is also easier for the sponsor to set up. The regulated area encompasses all waters of the Hudson River from the Albany Rensselaer Swing Bridge, river mile 146.2, to Light 224 (LLNR 39015), river mile 147.5, located approximately 750 yards north of the I–90/Patroon Island Bridge. The new race course is 800 yards smaller than the previous course.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rule. This final rule is the same as the proposed rule except that the daily completion time for the event has been moved from 7 p.m. to 8 p.m. This change was made to provide a safety window for race completion and course removal in the event there is inclement weather. The Coast Guard is not publishing a Supplemental NPRM (SNPRM) for this change. A SNPRM is not necessary because the final rule is not materially different from the proposed rule, therefore the notice provided in the NPRM was sufficient for this final rule. This conclusion is based upon the following factors: the minimal extra time the regulations may be in effect,the extra time will only be required in case of inclement weather, the location of the event, and the minimal amount of commercial traffic affected.

Regulatory Evaluating

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of the Hudson River during the race and afterwards while lane breakdowns are being conducted, the effect of this regulation will not be significant for several reasons: this is an annual marine event currently published in 33 CFR § 100.104, the limited amount of commercial traffic in this area of the river,commercial vessels can plan their transits up the river around the time the regulated area is in effect as they will have advance notice of the event, it is an annual event with local support, the new course is 800 yards smaller than the previous course, the event's course has only been moved 1600 yards north of the previous regulated area,vessel traffic will still be able to transit the regulated area in accordance with 33 CFR § 100.104(c), and advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. *Small entities* include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation section above,the Coast Guard certifies under 5 U.S.C. § 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain *Federal mandates*. A Federal mandate is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

In accordance with agency procedures for implementing the National Environmental Policy Act (NEPA), the Coast Guard has considered the environmental impact of the Special Local Regulations together with the impacts of the marine event with which it is associated. In accordance with these NEPA implementing procedures, listed in Commandant Instruction M16475.1C, Figure 2–1, paragraphs (34)(h) and (35)(a), this final rule is categorically excluded from further environmental analysis and documentation. A written Categorical Exclusion Determination is not required.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this final rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Revise § 100.104 to read as follows:

§ 100.104 Empire State Regatta, Albany, New York.

(a) *Regulated area.* All waters of the Hudson River between the Albany Rensselaer Swing Bridge, river mile 146.2, and Light 224, (LLNR 39015), river mile 147.5, located approximately 750 years north of the I–90/Patroon Island Bridge.

(b) *Effective period.* This section is effective annually from 12 p.m. Friday through 8 p.m. Sunday, on the first weekend of June.

(c) *Special local regulations.* (1) The regulated area will be closed to all vessel traffic, except official patrol craft and sponsor craft, during the following times: Friday from 12 p.m. to 8 p.m.; Saturday from 6 a.m. to 8 p.m.; and on Sunday from 6 a.m. to 8 p.m.

(2) Vessels greater than 20 meters in length shall not transit the regulated area at any time during the effective period unless allowed to do so by the Coast Guard Patrol Commander.

(3) Vessels less than 20 meters in length may transit the regulated area at the conclusion of each day of racing. Transiting vessels will be escorted by official regatta patrol vessels specified in paragraph (c)(5) of this section. Approximate periods for transit will be: Friday at 8 p.m. through Saturday at 6 a.m.; and again on Saturday at 8 p.m. through Sunday at 6 a.m.

(4) Unless otherwise directed by the Coast Guard Patrol Commander, transiting vessels shall: proceed at no-wake speeds, remain clear of the race course area as marked by the sponosor-provided buoys, not interfere with races or any shells in the area, make no stops and keep to the eastern edge of the Hudson River.

(5) Official patrol vessels include Coast Guard and Coast Guard Auxiliary vessels, New York State and local police boats and other vessels so designated by the regatta sponsor or Coast Guard Patrol Commander.

(6) No person or vessel may enter or remain in the regulated area during the effective period unless participating in the event, or authorized to be there by the sponsor or Coast Guard patrol personnel.

(7) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessem operators of this regulation and other applicable laws.

(8) In the event of an emergency or as directed by the Coast Guard Patrol Commander, the sponsor shall dismantle the race course to allow the passage of any U.S. Government vessel or any other designated emergency vessel.

Dated: April 12, 1999.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 99–10115 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–6326–5]

RIN 2060–AI48

Revisions to Reference Method for the Determination of Fine Particulate Matter as $PM_{2.5}$ in the Atmosphere

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: A new national network of fine particulate monitors is being established over the next two years. In order to assure that monitoring data are of the highest quality and are comparable both within and between air monitoring agencies, many specific design and performance requirements were detailed in 40 CFR part 50, appendix L. Other requirements were set forth in documents such as section 2.12 of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods,'' EPA/600/R–94/038b.

This direct final action revises two requirements for measurement of fine particulates in 40 CFR part 50. For transport of exposed filters from the sample location to the conditioning environment, 40 CFR part 50 will no longer specify that the protective shipping container be made of metal. For verification of sampler flow rate, 40 CFR part 50 will now specify that new calibrations shall be performed if the reading of the sampler's flow rate indicator or measurement device differs by more than ±4 percent or more from the flow rate measured by the flow rate standard. The flow rate verification tolerance was previously set at ±2 percent.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to revise two requirements for measurement of fine particulate in 40 CFR part 50 should adverse comments be filed.

DATES: This rule is effective on June 21, 1999 unless the Agency receives adverse comments by May 24, 1999. Should the Agency receive such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. If adverse comments are timely received on an amendment, paragraph, or section of this rule and that provision may be addressed separately from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of adverse comment, effective on June 21, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air Docket (A–95–54), US Environmental Protection Agency, Attn: Docket No. A–95–54, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tim Hanley, Emissions, Monitoring, and Analysis Division (MD–14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541–4417, e-mail: hanley.tim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

Sections 110, 301(a), and 319 of the Clean Air Act as amended 42 U.S.C. 7409, and 7601(a).

II. Background

A new national network of fine particulate monitors is being established over the next two years. In order to assure that monitoring data are of the highest quality and are comparable both within and between air monitoring agencies, many specific design and performance requirements were detailed in 40 CFR part 50, appendix L. Other requirements were set forth in documents such as section 2.12 of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods,'' EPA/600/R–94/038b.

One design requirement detailed in 40 CFR part 50, appendix L, is the use of a protective metal container for transporting filter cassettes from

monitoring sites to the conditioning environment. (Sample filters are weighed before and after sample collection. To help assure that any post-sampling weight gain is due to $PM_{2.5}$, sample filters must be ''conditioned'' at the same moisture and temperature conditions prior to weighing.) 40 CFR part 50, appendix L, section 10.10, second sentence, reads: ''This protective container shall be made of metal and contain no loose material that could be transferred to the filter.'' The EPA believes that the requirement of a metal container should not be mandated and container selection should be based on performance, not design. What is important is not that the container be made of metal but that it not contain loose material that could be transferred to the filter. So, this direct final rule eliminates the requirement for metal containers and leaves in place the requirement that the containers not contain loose material that could be transferred to the filter.

To help assure that a sampler's collection of fine particles is acceptable for its intended use, 40 CFR part 50 requires that specific air flow rates be maintained and verified. Section 9.2.5 of appendix L, 40 CFR part 50 states ''If during a flow rate verification the reading of the sampler's flow rate indicator or measurement device differs by +/−2 percent or more from the flow rate measured by the flow rate standard, a new multi-point calibration shall be performed and the flow rate verification must then be repeated.'' The EPA believes that while flow rate is a critical parameter whose accuracy must be controlled, having too tight a control limit on verifications may result in unnecessary field calibrations. This is due to the expectation that flow rate verifications will be performed in the field on a schedule detailed in the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods,'' EPA/600/R–94/038b. Since conditions in the field will always be less controllable than in a laboratory, a more relaxed tolerance for verification of the flow rate will be set at +/−4 percent.

III. Administrative Requirements Section

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, State and local governments, or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not a ''significant regulatory action'' under the terms of the Executive Order 12866 and is therefore not subject to formal OMB review.

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

In compliance with Executive Order 12875, the Agency involved State, local, and Federal governments in the development of this rule. These governments are not directly impacted by the rule; i.e., they are not required to purchase control systems to meet the requirements of the rule. However, they will be required to implement the rule. Representatives of State environmental agencies have been members of the EPA work group developing this rule. The comments and suggestions of State agency staffs have been carefully considered in the rule development. In addition, all States had opportunity to comment on the proposed rule during the public comment period and the EPA fully considered these comments in the final rulemaking.

C. Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This direct final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under Executive Order 13084 entitled ''Consultation and Coordination with Indian Tribal Governments,'' EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaninful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements

of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Paperwork Reduction Act

Today's action does not impose any new information collection burden. This action revises the part 50 air monitoring regulations for particulate matter to allow for flexibility in the type of containers used and a reduction in unnecessary flow rate calibrations. The Office of Management and Budget (OMB) has previously approved the information collection requirements in the part 50 regulation under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060–0084 (EPA ICR No. 0940.13 and revised by 0940.14).

F. Impact on Small Entities

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions whose jurisdictions are less than 50,000 people. This final rule will not have a significant impact on a substantial number of small entities because it does not impact small entities whose jurisdictions cover less than 50,000 people. Pursuant to the provision of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities.

Since this modification is classified as minor, no additional reviews are required.

G. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final standards that include a Federal mandate that may result in estimated costs to State, local, or tribal governments, or to the private sector, of, in the aggregate, $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the standard and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the standards. The EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments. Therefore, the requirements of the Unfunded Mandates Act of 1995 do not apply to this action.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. The search was performed by querying the National Resource for Global Standards Database available on the world wide web at www.nssn.org. This database, maintained by the American National Standards Institute, is a comprehensive data network for national, foreign, regional and international standards and regulatory documents. The search did not identify any voluntary consensus standard that referenced the required use of metal containers or specific flow rate tolerances in standards applicable to particulate matter. Therefore, EPA intends to use the technical standards proposed herein.

I. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Quality assurance requirements, Ambient air quality monitoring network.

Dated: April 9, 1999.

Carol M. Browner,

Administrator.

* * * * *

For the reasons set forth in the preamble, title 40, chapter I, part 50 of the Code of Federal Regulations is amended as follows:

PART 50—[AMENDED]

1. The authority citation for part 50 continues to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613, 7619.

2. Appendix L is amended by revising section 9.2.5 to read as follows:

Appendix L to Part 50—Reference Method for the Determination of Fine Particulate Matter as $PM_{2.5}$ in the Atmosphere

9.2.5 If during a flow rate verification the reading of the sampler's flow rate indicator or measurement device differs by ± 4 percent or more from the flow rate measured by the flow rate standard, a new multipoint calibration shall be performed and the flow rate verification must then be repeated.

3. Appendix L is further amended by revising the second sentence of section 10.10 to read as follows:

10.10 * * * The protective container shall contain no loose material that could be transferred to the filter. * * *

[FR Doc. 99–9593 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6326–2]

Approval of the Clean Air Act, Section 112(l), Delegation of Authority to Puget Sound Air Pollution Control Agency in Washington; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority; amendment.

SUMMARY: This action provides an amendment to a direct final **Federal Register** action published on December

1, 1998 (see 63 FR 66054), that granted Clean Air Act, section 112(l), delegation of authority for three local air agencies in Washington, including Puget Sound Air Pollution Control Agency (PSAPCA), to implement and enforce specific 40 CFR parts 61 and 63 federal National Emission Standards for the Hazardous Air Pollutants (NESHAP) regulations which have been adopted into local law. This action amends 40 CFR 63.99 by revising the table outlining PSAPCA's current delegation status.

DATES: This amendment is effective on April 22, 1999.

ADDRESSES: Copies of the requests for delegation and other supporting documentation are available for public inspection at the following location: U.S. Environmental Protection Agency, Region X, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101.

FOR FURTHER INFORMATION CONTACT: Andrea Wullenweber, US EPA, Region X (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101, (206) 553–8760.

SUPPLEMENTARY INFORMATION:

I Administrative Requirements

Under Executive Order (E.O.) 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore, not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

II Clarification

On December 1, 1998, EPA promulgated direct final approval of the Washington Department of Ecology (Ecology) request, on behalf of the Puget Sound Air Pollution Control Agency (PSAPCA), for program approval and delegation of authority to implement and enforce specific 40 CFR parts 61 and 63 federal NESHAP regulations which have been adopted into local law (as apply to both part 70 and non-part 70 sources). Since the February 1, 1999, effective date of that program approval and delegation of authority, Ecology has submitted an updated delegation request on behalf of PSAPCA. In a letter dated March 1, 1999, Ecology requested updated delegation for PSAPCA to implement and enforce specific 40 CFR part 63 National Emission Standards for Hazardous Air Pollutants (NESHAPs) in effect as of July 1, 1998, as these new and revised standards have been adopted unchanged into PSAPCA Regulation III, section 2.02 (as amended on September 10, 1998). Consistent with RCW 70.94.860 and the approved mechanism for streamlined delegation (see page 66057, 63 FR 66054, December 1, 1998), EPA granted this updated delegation request to Ecology for purposes of redelegating to PSAPCA in a letter to Ecology dated March 19, 1999. The effective date of that letter and the updated delegation was March 29, 1999.

Therefore, PSAPCA now has the authority to implement and enforce 40 CFR part 63 NESHAPs in effect as of July 1, 1998. This update includes any revisions to previously delegated 40 CFR part 63 standards, and the following new NESHAPs: Subpart S (Pulp & Paper), Subpart LL (Primary Aluminum), and Subpart EEE (Hazardous Waste Combustors).

PSAPCA is now the primary point of contact with respect to these delegated NESHAPs. Pursuant to 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii), EPA waived the requirement that notifications and reports for delegated standards be submitted to EPA in addition to PSAPCA. Therefore, sources within PSAPCA's jurisdiction should send notification and reports for delegated NESHAPs to PSAPCA, and do not need to send a copy to EPA.

This updated delegation for PSAPCA to implement and enforce NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151, except for those non-trust lands within the boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies, such as PSAPCA, authority over activities on non-trust lands within the 1873 Survey Area. Therefore, PSAPCA will implement and enforce the NESHAPs on these non-trust lands within the 1873 Survey Area. EPA will continue to implement the NESHAPs in all other Indian country, consistent with previous federal program approvals or delegations, because PSAPCA does not have authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 8, 1999.

Chuck Clarke,

Regional Administrator, Region X.

40 CFR Part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for Part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by revising the table in paragraph (a) (47)(i) to read as follows:

§ 63.99 Delegated Federal Authorities

(a) * * *

(47) * * *

(i) * * *

DELEGATION STATUS FOR PART 63 STANDARDS—WASHINGTON

Subpart		Ecology [1]	BCAA [2]	NWAPA [3]	OAPCA [4]	PSAPCA [5]	SCAPCA [6]	SWAPCA [7]	YRCAA [8]
A	General Provisions [9]			X		X		X	
D	Early Reductions			X		X		X	
F	HON-SOCMI			X		X		X	
G	HON-Process Vents			X		X		X	
H	HON-Equipment Leaks			X		X		X	
I	HON-Negotiated Leaks			X		X		X	
L	Coke Oven Batteries			X		X		X	
M	Perc Dry Cleaning			X		X		X	
N	Chromium Electroplating			X		X		X	
O	Ethylene Oxide Sterilizers			X		X		X	
Q	Industrial Process Cooling Towers.			X		X		X	
R	Gasoline Distribution			X		X		X	
S	Pulp and Paper					X			
T	Halogenated Solvent Cleaning			X		X		X	
U	Polymers and Resins I			X		X			
W	Polymers and Resins II-Epoxy			X		X		X	
X	Secondary Lead Smelting			X		X		X	
Y	Marine Tank Vessel Loading			X		X		X	
CC	Petroleum Refineries			X		X		X	
DD	Off-Site Waste and Recovery			X		X		X	
EE	Magnetic Tape Manufacturing			X		X		X	
GG	Aerospace Manufacturing & Rework.			X		X		X	
II	Shipbuilding and Ship Repair			X		X		X	
JJ	Wood Furniture Manufacturing Operations.			X		X		X	
KK	Printing and Publishing Industry.			X		X		X	
LL	Primary Aluminum					X			
OO	Tanks—Level 1			X		X			
PP	Containers			X		X			
QQ	Surface Impoundments			X		X			
RR	Individual Drain Systems			X		X			
VV	Oil-Water Separators and Organic-Water Separators.			X		X			
EEE	Hazardous Waste Combustors.					X			
JJJ	Polymers and Resins IV			X		X		X	

[1] Washington Department of Ecology
[2] Benton Clean Air Authority
[3] Northwest Air Pollution Authority (5/14/98)
[4] Olympic Air Pollution Control Authority
[5] Puget Sound Air Pollution Control Agency (7/1/98)
[6] Spokane County Air Pollution Control Authority
[7] Southwest Air Pollution Control Authority (8/1/96)
[8] Yakima Regional Clean Air Authority
[9] Authorities which are not delegated include: 40 CFR 63.6(g); 63.6(h)(9); 63.7(e)(2)(ii) and (f) for approval of major alternatives to test methods; 63.8(f) for approval of major alternatives to monitoring; 63.10(f); and all authorities identified in the subparts (i.e., under ''Delegation of Authority'') that cannot be delegated. For definitions of minor, intermediate, and major alternatives to test methods and monitoring, see memorandum from John Seitz, Office of Air Quality Planning and Standards, dated July, 10, 1998, entitled, ''Delegation of 40 CFR Part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies.''

Note to paragraph (a)(47): Dates in parenthesis indicate the effective date of the federal rules that have been adopted by and delegated to the state or local air pollution control agency. Therefore, any amendments made to these delegated rules after this effective date are not delegated to the agency.

[FR Doc. 99–9606 Filed 4–21–99; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 42

[CC Docket No. 96–61; FCC 99–47]

Nondominant Interexchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Second Order on Reconsideration, the Commission consider again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms, and conditions for all of their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created ''filed-rate'' doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate, interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

EFFECTIVE DATE: May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Andrea Kearney, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Order On Reconsideration and Erratum adopted March 18, 1999, and released March 31, 1999 (FCC 99–47). The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 425 12th Street, SW, Washington, D.C. the complete text also may be obtained through the World Wide Web, at http:/www.fcc.gov/Bureaus/Common Carrier/Order/fcc9947.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Synopsis of Second Order on Reconsideration and Erratum Overview

A. Overview

1. In this Second Order on Reconsideration, we consider again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms, and conditions for all of their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created ''filed-rate'' doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate, interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

2. With the advent of competition in the provision of interstate, interexchange services, however, tariffing became less beneficial and, in some ways, harmful to consumers. The Commission previously has concluded that tariffing can discourage competitive pricing, restrict the flexibility of carriers seeking to offer service arrangements tailored to an individual customer's needs, and impose unnecessary regulatory costs on carriers. In view of these concerns as well as the potentially harsh consequences of the ''filed-rate'' doctrine for consumers, and pursuant to a statutory amendment contained in the Telecommunications Act of 1996, the Commission in the *Second Report and Order,* 61 FR 59340 (November 22, 1996) required the complete detariffing of interstate, domestic, interexchange services offered by nondominant carriers.

3. At the same time, the Commission sought to retain the one aspect of tariffing that continued to serve the public interest, i.e., giving consumers access to information about the rates, terms and conditions of services offered by these carriers. Thus, in the same order in which the Commission eliminated tariffing of interstate, domestic, interexchange services, the Commission imposed a public disclosure requirement.

4. Following a stay of the *Second Report and Order* by the Court of Appeals for the District of Columbia Circuit, and upon the petitions of a number of parties who claimed that the public disclosure requirement would lead to some of the same ills that prompted the Commission to order complete detariffing, the Commission eliminated the public disclosure requirement in the *Order on Reconsideration.* Acting on petitions for reconsideration of that order, we now conclude that in a detariffed and increasingly competitive environment, consumers should have ready access to information concerning the rates, terms, and conditions governing the provision of interstate, domestic, interexchange services offered by nondominant IXCs. We therefore reinstate the public disclosure requirement that was originally established in the *Second Report and Order,* and also require nondominant IXCs that have Internet websites to post this information on-line.

B. Procedural Background

5. On October 29, 1996, the Commission adopted the *Second Report and Order* in its proceeding reviewing the regulation of interstate, domestic, interexchange telecommunications services. Throughout this proceeding, the Commission's objective has remained constant: to foster increased competition in the market for interstate, domestic, interexchange telecommunications services by eliminating unnecessary regulation, in accordance with the goals established by Congress in the 1996 Act. The 1996 Act added section 10 to the Communications Act, which requires the Commission to forbear from applying any provision of the Communications Act, or any of the Commission's regulations, to a telecommunications carrier or telecommunications service, or class thereof, if the Commission makes certain specified findings with respect to such provisions or regulations.

6. For more than a decade prior to the 1996 Act, the Commission attempted to forbear from tariff regulation of nondominant IXCs, but was struck down by the courts. Subsequently, the Commission requested, and Congress granted in section 10 of the Act, forbearance authority, with the express understanding that it would be used to effectuate interexchange detariffing. Exercising its forbearance authority, the Commission eliminated its tariff filing requirements for nondominant IXCs in the *Second Report and Order*. While tariffs originally were required to protect consumers from unjust, unreasonable, and discriminatory rates in a virtually monopolistic market, the Commission concluded that such tariffs had become unnecessary for this purpose in an increasingly competitive market. The Commission found that it is highly unlikely that interexchange carriers that lack market power could successfully charge rates, or impose terms and conditions, for interstate, domestic, interexchange services that violate sections 201 and 202 of the Communications Act because consumers could simply switch to a competing provider that offered better rates, terms, and conditions. Instead of tariffs, the Commission found that it could rely on market forces, the section 208 complaint process, and its ability to reimpose tariff requirements, if necessary, to fulfill its mandate under the Communications Act to ensure that rates are just and reasonable and not unreasonably discriminatory, and to protect consumers. Moreover, the Commission concluded that tariffs can have negative effects that impair market efficiency and increase costs to consumers. The Commission found that, in particular, tariffs impede competition by permitting carriers to invoke the ''filed-rate'' doctrine and by not requiring carriers to provide rate and service information directly to consumers. The Commission also stated that tariffs provide a source of information that carriers can use to engage in tacit price coordination.

7. Although the Commission concluded that tariffs harm competition in the market for interstate, domestic, interexchange services, it also acknowledged that in the absence of some rate disclosure requirement, even in a competitive market, consumers might not have access to sufficient information about such services for purposes of bringing complaints under section 254(g) of the Act or for choosing the particular rate plan that best suits their individual needs. Yet the Commission also recognized that requiring carriers to make such information publicly available for these purposes may be at odds with its goals to reduce regulatory burdens on nondominant IXCs and to foster additional competition in the interstate, domestic, interexchange market. In addition, an information disclosure requirement may detract from the Commission's goal of deterring any tacit price coordination that might exist because rate and service information would be collected and made available in a single, central location.

8. The Commission determined in the *Second Report and Order* that the statutory forbearance criteria in section 10 of the Communications Act were met for complete detariffing of the interstate, domestic, interexchange services offered by nondominant IXCs. The Commission concluded that complete detariffing would foster increased competition without failing to protect consumers by eliminating the possible invocation of the ''filed-rate'' doctrine in ways that would otherwise lead to harsh results for consumers, establishing market conditions that more closely resemble an unregulated environment, and deterring any potential for tacit price coordination.

9. The Commission also adopted a public disclosure requirement in the *Second Report and Order* because it recognized that, even in a competitive market, nondominant IXCs might not provide complete information about the rates, terms, and conditions of their interstate, domestic, interexchange services to enable customers to bring to the Commission's attention violations of the Communications Act and to choose the calling plan that best suits their individual needs. For example, nondominant IXCs might engage in targeted advertising concerning particular discounts and rate plans that might be the most appropriate plan for some, but not all, consumers. The Commission required nondominant IXCs to disclose to the public information about the rates, terms, and conditions of all of their interstate, domestic, interexchange services, in at least one location during regular business hours. The Commission did not, however, require that public disclosure be made in any particular format or at any particular location, although it encouraged nondominant IXCs to consider ways to make this information more widely available to the public, for example, posting such information on-line, mailing relevant information to consumers, or responding to inquiries over the telephone. In addition to adopting the public disclosure requirement, the Commission required nondominant IXCs to: (1) file an annual certification stating that they are in compliance with the geographic rate averaging and rate integration requirements of section 254(g) of the Communications Act, and (2) maintain supporting documentation on the rates, terms, and conditions of all of their interstate, domestic, interexchange services that they could submit to the Commission and to state commissions within ten business days upon request.

10. Several parties filed petitions for review of the *Second Report and Order* in the District of Columbia Circuit and filed motions requesting that the court stay the *Second Report and Order* pending judicial review. On February 13, 1997, the court granted these motions. In addition, a number of parties filed petitions requesting that the Commission reconsider or clarify the rules it adopted in the *Second Report and Order.*

11. On August 15, 1997, the Commission adopted the *Order on Reconsideration.* The Commission placed more weight on its concern that making available rate and service information to the public may detract from its objectives of deterring tacit price coordination and allowing market forces rather than regulation to discipline carriers. The Commission recognized that elimination of the public disclosure requirement could make the access to rate and service information more difficult for businesses, including consumer groups that offer their analyses of the rates and services of IXCs to the public, as well as for resellers that are both customers and competitors of IXCs. The Commission nevertheless concluded that the benefits of eliminating the public disclosure requirement would outweigh any adverse effects. The Commission determined that elimination of the public disclosure requirement would decrease the regulatory burden on nondominant IXCs and deter any tacit price coordination that might exist. The Commission also found that, in all likelihood, consumers would still receive the information they need to ensure that they have been correctly billed and to bring to the Commission's attention possible violations of section 254(g) and other provisions of the Act. The Commission stated, however, that it remained willing to revisit its decision regarding the elimination of the public disclosure requirement. The Commission did not modify the requirements adopted in the *Second Report and Order* that nondominant IXCs file an annual certification and that they maintain supporting

documentation on their interstate, domestic, interexchange services that they could submit to the Commission and to state regulatory commissions within ten business days upon request.

12. Five parties filed petitions for further reconsideration asking the Commission to reinstate the public disclosure requirement. The D.C. Circuit subsequently deferred the briefing schedule in the appeal of the *Second Report and Order* to allow the Commission to act on these petitions. The judicial stay of the Commission's rules adopted in this proceeding, therefore, remains in effect.

13. The single issue raised on reconsideration is whether the Commission should require nondominant IXCs to make available to the public information on the rates, terms, and conditions of their interstate, domestic, interexchange services. For the reasons set forth, we reinstate the public disclosure requirement that was originally specified in the *Second Report and Order* and also require that carriers make this information publicly available on-line at their Internet websites.

C. Discussion

14. The parties who filed the petitions for reconsideration that are before us today express grave concerns about the effects on consumers of the Commission's decision to eliminate the public disclosure requirement. These parties generally disagree with the Commission's finding in the *Order on Reconsideration* that consumers will have access to the information they need to select a telecommunications carrier and to bring to the Commission's attention possible violations of the Communications Act without a specific public disclosure requirement. Eighty-five percent of consumers believe that the public disclosure requirement will serve their interests, according to a study commissioned by one of the members of petitioner TURN/TMISC. Consumers find that IXCs' billing information often is ''inaccurate and difficult to understand'' and that their marketing information is ''confusing,'' according to findings of other studies cited by petitioners. Consumers find it impossible to obtain accurate and detailed information directly from carriers concerning their calling plans, according to TURN/TMISC and TRAC, on the basis of their own experiences in attempting to obtain such information directly from IXCs. These petitioners claim that carrier representatives: (1) provided information that was generally incomplete or inaccurate; (2) referred callers to their filed tariffs rather than provide information verbally; (3) withheld information about lower-cost calling plans; and (4) provided information verbally, but only reluctantly confirmed it in writing. We also note that MCI WorldCom recently ended its cooperation with TRAC to provide information that TRAC summarizes in its comparative chart of long distance calling plans, citing the ''time-consuming nature of gathering and confirming information,'' and referred the organization to its filed tariffs.

15. There is abundant evidence that making information available to consumers is beneficial to competitive markets. In addition to the evidence set forth and in prior orders in this proceeding, several of our recent decisions clearly recognize the beneficial effects of publicly available information on competitive markets and consumers. For instance, we proposed rules in the *Truth-in-Billing Notice* to make telephone bills more readable and accurate, because we believe that ''consumers must have adequate information about the services they are receiving, and the alternatives available to them, if they are to reap the benefits of a competitive market.'' In 1998, we adopted a price disclosure requirement for long distance carriers providing service at public phones that ''more readily enables consumers to obtain valuable information necessary in making the decision whether to have that [carrier] carry the call at the identified rates, or to use another carrier.'' We took these actions to address concerns that consumers were not receiving sufficient information to protect themselves against fraud and misinformation, and to select telecommunications services and providers that best suit their individual needs. There are many examples of government mandating disclosure of information to protect and promote consumer interests.

16. In comparison with abundant evidence in this proceeding of the benefits of information to competition and consumers, the anticompetitive effect of a public disclosure requirement is sparse and indeterminate. Moreover, the growing number of competitors in this market substantially lessens the risk of tacit price collusion. As antitrust law recognizes, tacit price collusion is more likely to occur where there are only a few competitors who have an oligopoly in the market. Where there are greater numbers of competitors and low barriers to entry, as in the long distance market, the likelihood of such coordinated behavior is marginal. In light of the ''conflicting and inconclusive'' evidence of tacit price collusion and the competitive nature of the market, we now are convinced that the public availability of pricing information presents only the slimmest opportunity for collusion and thus a public disclosure requirement need not be eliminated on that basis. Consequently, in light of the very positive public benefits of a limited public disclosure requirement, we believe that the Commission erred in previously eliminating that requirement in the *Order on Reconsideration*. In addition, the growth of competition in the long distance market means that consumers have more choices and, in turn, need more information in order to choose the long distance service plan that best suits their needs. We also note that IXCs have superior resources and incentives to stay informed of the rate plans of their competitors whether or not rate and service information is made publicly available. Therefore, it is consumers who likely will experience the most harm in the absence of a meaningful public disclosure requirement. We clearly recognize that tacit price collusion is one of the grounds on which the Commission relied in choosing to forbear from the tariffing requirement and that basis is incongruous with our current holding. Nonetheless, we emphasize that the Commission substantially rested its detariffing decision on grounds other than collusion that remain compelling; thus, we find no conflict between the Commission's decision to order complete detariffing and our decision to require public disclosure.

17. We agree with Ad Hoc that the ''filed-rate'' doctrine that the courts have applied to the tariff filing requirement should not apply to the public disclosure requirement. The ''filed-rate'' doctrine is applied to the rates, terms, and conditions of services specified in tariffs that are ''duly filed'' with the Commission in accordance with section 203 of the Communications Act. The ''filed-rate'' doctrine is inapplicable to the public disclosure requirement because it is not a filing requirement within the meaning of section 203, but rather simply requires carriers to make information available to the public. Moreover, the Commission has long held that the ''filed-rate'' doctrine is harmful to competition and consumers, as noted.

18. In the face of opposing positions on whether public disclosure should be required, we strike the balance once again in favor of consumer concerns. We therefore reinstate the public disclosure requirement as originally established in the *Second Report and Order.*

Specifically, we require nondominant IXCs to make information available to the public concerning current rates, terms, and conditions for all of their interstate, domestic, interexchange services, in at least one location during regular business hours. We also require such carriers that have Internet websites to post this information on-line. Carriers should post rate and service information at their Internet websites in a timely and easily accessible manner and update such information regularly. We agree with TRAC and Ad Hoc that an on-line public disclosure requirement will make rate and service information more readily available and beneficial for consumers directly, as well as for businesses and consumer organizations that collect and analyze rate and service information and offer their analyses to the public, particularly in view of the tremendous growth in usage of the Internet since the adoption of the *Second Report and Order* in 1996 and forecasts for additional growth. We find that an on-line requirement is not unduly burdensome, because the growth of Internet usage has increased the benefits of an on-line requirement to consumers, and the costs of maintaining an Internet website and posting the information on-line for carriers are moderate. We exempt from the Internet posting requirement nondominant IXCs that do not have Internet websites, to avoid imposing undue burdens on such carriers.

19. Our decision to reinstate the public disclosure requirement can be reconciled with our previous decision to implement complete detariffing. The Commission's decision to forbear from applying the tariff filing requirements to nondominant IXCs and require complete detariffing is amply supported by evidence of numerous concerns that are independent of, and more compelling than, tacit price coordination. These concerns, as set forth in the *Second Report and Order* and the *Order on Reconsideration*, include promoting competitive market conditions, eliminating problems resulting from the ''filed-rate'' doctrine, and preserving the public's reasonable commercial expectations. We believe that our decision to reinstate the public disclosure requirement retains the one positive aspect of tariffing, making information on the rates, terms, and conditions of interstate, interexchange services available to the public, without the negative aspects of tariffing.

II. Erratum

20. This Erratum corrects a final rule in the *Order on Reconsideration*, which was released by the Commission on August 20, 1997 and published at 62 FR 46447, September 3, 1997. Rule changes to the *Order on Reconsideration* is corrected to include a reference to state regulatory commissions that was contained in the text of paragraph 69 of the *Order on Reconsideration*, but was inadvertently not included in the rule to be codified at 47 CFR 42.11. The corrected final rule is contained in this order.

III. Ordering Clauses

Accordingly, *it is ordered*, that, pursuant to sections 1–4, 10, 201–205, 215, 218, 220, 226, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201–205, 215, 218, 220, 226, and 254, the *second order on reconsideration* is hereby *adopted*. The requirements adopted in this *Second Order on Reconsideration* shall be effective [30 days after publication of a summary thereof in the **Federal Register**] or on the date when the requirements adopted in the *Second Report and Order* in this proceeding become effective, whichever is later.

22. *It is further ordered* that the Petitions for Further Reconsideration filed in this proceeding *are granted* to the extent described in this order.

23. *It is further ordered* that Part 42 of the Commission's rules, 47 CFR 42, *is amended* as set forth in the Rule Changes.

24. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, *shall send* a copy of this *Second Order on Reconsideration*, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 42 as follows:

PART 42—PRESERVATION OF RECORDS OF COMMUNICATIONS COMMON CARRIERS

1. The authority citation for part 42 continues to read as follows:

Authority: Sec. 4(i), 48 Stat. 1066, as amended, 47 U.S.C. 154(i). Interprets or applies secs. 219 and 220, 48 Stat. 1077–78, 47 U.S.C. 219, 220.

2. The undesignated center heading preceding § 42.11 is revised to read as follows:

Specific Instructions for Carriers Offering Interexchange Services

3. Section 42.10 is added to read as follows:

§ 42.10 Public availability of information concerning interexchange services.

(a) A nondominant interexchange carrier (IXC) shall make available to any member of the public, in at least one location, during regular business hours, information concerning its current rates, terms and conditions for all of its interstate, domestic, interexchange services. Such information shall be made available in an easy to understand format and in a timely manner. Following an inquiry or complaint from the public concerning rates, terms and conditions for such services, a carrier shall specify that such information is available and the manner in which the public may obtain the information.

(b) In addition, a nondominant IXC that maintains an Internet website shall make such rate and service information specified in paragraph (a) of this section available on-line at its Internet website in a timely and easily accessible manner, and shall update this information regularly.

4. Section 42.11 is amended by revising paragraph (a) to read as follows:

§ 42.11 Retention of information concerning interexchange services.

(a) A nondominant IXC shall maintain, for submission to the Commission and to state regulatory commissions upon request, price and service information regarding all of the carrier's interstate, domestic, interexchange service offerings. The price and service information maintained for purposes of this paragraph shall include documents supporting the rates, terms, and conditions of the carrier's interstate, domestic, interexchange offerings. The information maintained pursuant to this section shall be maintained in a manner that allows the carrier to produce such records within ten business days.

* * * * *

[FR Doc. 99–10023 Filed 4–21–99; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 64, No. 77
Thursday, April 22, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–22–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) PW4000 series turbofan engines. This proposal would establish short term criteria for limiting the number of engines with potentially reduced stability on each airplane to no more than one engine, would require initial and repetitive on-wing or test cell cold takeoff high pressure compressor (HPC) stability tests, would require removal of engines from service that fail on-wing test acceptance criteria, and would allow a follow-on test cell stability test. The AD also establishes required intervals for stability testing of the remaining engine with potentially reduced stability on the airplane and requirements for reporting test data. This proposal is prompted by a report of a dual-engine HPC surge event and reports of single-engine HPC surge events during the takeoff and climb phases of flight. The actions specified by the proposed AD are intended to prevent an HPC surge event, which could result in engine power loss at a critical phase of flight such as takeoff or climb.

DATES: Comments must be received by May 24, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–22–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NE–22–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–22–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received a report of a dual-engine high pressure compressor (HPC) surge event and several reports of single-engine HPC surge events on Pratt & Whitney (PW) PW4000 series turbofan engines. The FAA has determined that these HPC surges are caused by excessive HPC blade tip-to-stator assembly clearances in the aft stages of the HPC. The average maximum clearance between the blade tip and the stator assembly is reached during a cold engine takeoff approximately 60 seconds after throttle advance from idle to takeoff power, as a result of different thermal growth rates of the HPC rotor and stator components. The manufacturer's data indicates that some PW4000 engines exhibit reduced stability resulting from clearances larger than those due to this thermal mismatch alone. Testing has indicated that binding of stator assembly segments in the HPC outer casing can result in flow path distortion and produce local open clearances. These two factors (average maximum clearance and local open clearances) combine to produce excessive local blade tip-to-stator assembly clearances, which reduce stability and create subsequent engine surge.

The FAA has issued AD 98–23–08, Amendment 39–10873, (63 FR 63391, November 13, 1998) which was intended to reduce the rate of single-engine surges. Although the surge rates for engines that have incorporated the requirements of that AD have been reduced, the FAA has determined that further improvement is necessary. The investigation of engine surge events has determined that the dual-engine HPC surge event and several single-engine surge events have occurred on engines that meet the requirements of AD 98–23–08.

This condition, if not corrected, could result in an HPC surge event, which could result in engine power loss at a critical phase of flight such as takeoff or climb.

The FAA has reviewed and approved the technical contents of PW Special Instructions (SI) 49F96, dated August 9, 1996, PW SI 7F–96, dated January 10, 1996, and PW PW4000 Engine Manual Temporary Revisions 71–0016, 71–0025, and 71–0030, all dated March 15, 1999, and PW SI 32F–99, dated March April 13, 1999, which describe procedures for assessing the stability of PW4000 engines. Since an unsafe condition has been identified that is likely to exist or develop on other Pratt & Whitney (PW) PW4000 series turbofan engines of the same type design, the proposed AD would require short term criteria for limiting the number of engines with potentially reduced stability on each airplane to no more than one engine, would require initial and repetitive on-wing or test cell cold takeoff high pressure compressor (HPC) stability tests for all affected PW4000 series engines, would require removal from service of engines that fail on-wing test criteria, and would allow a follow-on test-cell stability test. Initial on-wing testing is required to limit the number of engines on the aircraft to no more than one engine that has exceeded the initial stability threshold. The proposed AD also establishes requirements to perform a stability test of the remaining engine with potentially reduced stability on the airplane. The stability tests are required to be accomplished in accordance with the special instructions described previously. This proposed AD has been drafted in conjunction with the Transport Aircraft Directorate, to coordinate the aircraft level aspects of this compliance plan. Data reporting requirements are necessary for this AD to allow continuous monitoring of the effectiveness and assumptions of this compliance plan. The manufacturer does not receive data on all of the tests that are performed, and this data is necessary to continuously monitor this plan. Additional rulemaking may be necessary based on the results of the data collected.

There are approximately 2,200 engines of the affected design in the worldwide fleet. The FAA estimates that 546 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The FAA also estimates that, on average, approximately 192 on-wing tests, 60 test cell stability tests, 11 engine removals, and 19 HPC overhauls will be required annually. It is estimated that the cost to industry of an on-wing stability test will average $2,000, a test cell stability test will average $12,000, an engine removal is approximately $5,000, and an HPC overhaul will cost approximately $400,000. Based on these figures, the total average annual cost impact of the proposed AD to U.S. operators is estimated to be $8,759,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 99–NE–22–AD.

Applicability: Pratt & Whitney PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462 and PW4650 turbofan engines installed on, but not limited to certain models of Boeing 747, Boeing 767, Airbus Industrie A300, Airbus Industrie A310, and McDonnell Douglas MD–11 series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a high pressure compressor (HPC) surge event, which could result in engine power loss at a critical phase of flight such as takeoff or climb, accomplish the following:

(a) Limit the number of engines on each airplane to no more than one untested engine that has exceeded the initial threshold specified in Table 1 of this AD, within 1,000 engine cycles in service (CIS) from the effective date of this AD or by December 31, 1999, whichever comes first, by one of the following methods:

(1) Conduct an initial on-wing stability test on engines listed in Table 1 of this AD, which have accumulated cycles equal to or greater than the associated initial threshold listed in Table 1 of this AD, as follows:

(i) Perform either a Cool Bodie stability test in accordance with PW Special Instructions 7F–96,dated January 10, 1996. Refer to Table 2 of this AD for disposition instructions, or;

(ii) Perform an E1E stability test in accordance with paragraphs A through D and F through H of the Run On-Wing E1E Testing section of PW Special Instructions 49F–96, dated August 9, 1996. Refer to Table 2 of this AD for disposition instructions.

(iii) For purposes of this AD, the initial threshold for PW4056, PW4156, and PW4156A, first run, full-up engines, applies only to engines that have incorporated service bulletins PW4ENG 72–474, 72–477, 72–484, 72–575, 72–485, 72–486, and 72–514 at original manufacture, and have had no work performed on the HPC and high pressure turbine gas path.

(2) Remove from service those engines listed in Table 1 of this AD with HPC's that have accumulated cycles equal to or greater than the initial threshold listed in Table 1 of this AD and replace with a serviceable engine that has undergone applicable initial and repetitive testing in accordance with paragraphs (a), (b) and (c) of this AD.

TABLE 1

Models	Initial threshold	Engine manual
PW4052, PW4152, PW4158, PW4050, PW4650	2400 HPC cycles since new or since HPC overhaul	50A605, 50A443
PW4056,* PW4156,* PW4156A*	1700 engine cycles since new	50A605, 50A443
PW4056, PW4156, PW4156A	1200 HPC cycles since HPC overhaul	50A605, 50A443
PW4060, PW4060A, PW4060C, PW4062, PW4160, PW4460, PW4462.	1200 HPC cycles since new or since HPC overhaul	50A605, 50A443,50A822

First Run, Full Up Engines.

TABLE 2.—ON-WING ACCEPTANCE CRITERIA

Test type	Test result	Disposition
Cool Bodie: In accordance with SI 7F–96, dated August 9, 1996.	Pass	Continue in service.
	Failure	Remove from service or conduct E1E. If <0.02 continue in service. If E1E is ≥0.02 remove from service, prior to further flight.
E1E: In accordance with SI 49F–96, dated January 10, 1996.	<0.02	Continue in service.
	≥0.02 but ≤0.032	Conduct Cool Bodie, if pass continue in service. If fail remove engine from service, prior to further flight.
	>0.032	Remove from service, prior to further flight.

(b) For engines removed from service in accordance with paragraph (a) of this AD, a cold engine fuel spike stability test (Testing—20) may be done in accordance with the associated PW PW4000 Engine Manual Temporary Revisions 71–0016, 71–0025, and 71–0030, all dated March 15, 1999, or PW SI 32F–99, dated April 13, 1999. Engines that pass a test cell stability test may be returned to service.

(c) Repeat stability tests in accordance with paragraph (a)(1)(i) or (a)(1)(ii) on engines that meet the acceptance criteria of Table 2 of this AD or pass a test cell stability test in accordance with paragraph (b) before accumulating 800 CIS since last stability test.

(d) Remove from service engines that do not meet the acceptance criteria of Table 2, prior to further flight and replace with a serviceable engine that has undergone applicable initial and repetetive testing in accordance with paragraphs (a), (b) and (c) of this AD.

(e) Conduct stability tests on the remaining engine on each airplane before accumulating 1800 engine CIS after the effective date of this AD, or by December 31, 2000, whichever comes first, in accordance with paragraph (a) of this AD.

(f) Engines that have not reached the initial threshold specified in Table 1 of this by 1000 engine CIS after the effective date of this AD, or by December 31, 1999, whichever comes first, must be tested before the engine reaches the initial threshold so that no more than one engine per airplane has not been tested. After accumulating 1800 CIS or December 31, 2000, whichever comes first, the engines must be managed so that all engines have been tested in accordance with the initial thresholds specified in Table 1 of this AD or the repetitive 800 CIS threshold requirement of this AD.

(g) After the effective date of this AD, a cold engine fuel spike stability test (Testing—20) must be performed in accordance with PW Temporary Revision 71–0016, 71–0025, or 71–0030, all dated March 15, 1999, or PW SI 32F–99, dated April 13, 1999, before an engine can be returned to service after having undergone maintenance in the shop, except under any of the following conditions:

(1) The HPC stage 12 through 14 blade tip clearances were restored to the clearances specified in the applicable fits and clearances engine manual during the shop visit, or the HPC was replaced with a new HPC during the shop visit.

(2) Less than 800 CIS have passed since the last accomplishment of Testing—20, unless a major engine flange was separated during the shop visit.

(3) The shop visit was only for replacement of a line replaceable unit, with no other work done, unless a major engine flange was separated during the shop visit.

Note 2: Boeing SB 767–72A0034, dated April 16, 1999, and SB 747–72A2038, dated April 16, 1999, include instructions similar to those contained in this AD, however, these SB's are not approved as alternate methods of compliance with this AD.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(i) Report the results of the stability assessment tests to the Manager, Engine Certification Office, 12 New England Executive Park, Burlington, MA 01803–5299. Data to be reported includes engine serial number, type and date of the test, results of the test (include E1E value if applicable), position of engine on the airplane, disposition of the engine after the test, time and cycles since compressor overhaul, and total time on engine and total cycles at the time of the test. Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.

(j) Special flight permits may be issued in accordance §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on April 14, 1999.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–10054 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ANM–03]

Proposed removal of Class E airspace; Oak Harbor, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal would remove the Class E surface airspace at Oak Harbor Air Park, Oak Harbor, WA. The airport is no longer eligible to retain a Class E surface area because of a lack of weather reporting.

DATES: Comments must be received on or before June 7, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 99–ANM–03, 1601 Lind Avenue SW, Renton, Washington, 98055–4056.

The Official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 99–ANM–03, 1601 Lind Avenue SW, Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of this proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–ANM–03.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington, 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) to remove Class E airspace at Oak Harbor, WA. This amendment would revoke airspace no longer meeting the requirements of a Class E surface area. The weather reporting requirements for a surface area dictate that weather observations must be taken by a Federally Certified Weather Observer and/or a Federally Commissioned Weather Observing System during the times and dates the surface area is designated. These weather observations routinely are not being met as required at the Oak Harbor Air Park. Attempts to have interested personnel fix the reporting problem were unsuccessful. The intended effect of this proposal is designed to provide efficient and safe use of the navigable airspace.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from the surface of the earth, are published in Paragraph 6002 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, effective September 16, 1998, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

ANM WA E2 Oak Harbor, WA [Remove]

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Issued in Seattle, Washington, on April 9, 1999.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 99–10091 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 259

Request for Comment on the Guide Concerning Fuel Advertising for New Automobiles

AGENCY: Federal Trade Commission.

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission (''Commission'') requests public comment on the overall costs and benefits and the continuing need for its Guide Concerning Fuel Economy Advertising for New Automobiles (''Fuel Economy Guide'' or ''Guide''), 16 CFR Part 259, as part of the Commission's systematic review of all

current Commission regulations and guides.

DATES: Written comments will be accepted until June 21, 1999.

ADDRESSES: Mailed comments should be directed to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Mailed comments should be identified as '' Fuel Guide, 16 CFR Part 256—Comment.'' E-Mail comments will be accepted at [FuelGuide@ftc.gov]. Those who comment by e-mail should give a mailing address to which an acknowledgment can be sent.

FOR FURTHER INFORMATION CONTACT: Willie L. Greene, Investigator, Federal Trade Commission, Cleveland Regional Office, Cleveland, OH 44114, telephone number (216) 236–3406.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission adopted the Guide Concerning Fuel Economy Advertising for New Automobiles in 1975 to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy in advertising. Since its enactment, the Guide has advised marketers to disclose the established fuel economy of the vehicle as determined by EPA's Automobile Information Disclosure Act (15 U.S.C. 2206) in advertisements that make representations regarding the fuel economy of a new vehicle. These EPA fuel economy numbers also appear on window labels attached to new automobiles.

In 1978 and 1995, the Commission amended the Guide to make it consistent with EPA Information Disclosure Act changes regarding fuel economy disclosures. 43 FR 55757 (November 29, 1978); 60 FR 56230 (Nov. 8, 1995).

II. Regulatory Review Program

The Commission has determined to review all current Commission rules and guides periodically. These reviews seek information about the cost and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Therefore, the Commission solicits comments on, among other things, the economic impact of and the continuing need for the Guide concerning Fuel Economy Advertising for New Automobiles; possible conflict between the Guide and state, local or other federal laws; and the effect on the Guide of any technological, economic, or other industry changes.

III. Request for Comment

The Commission solicits written public comments on the following questions:

(1) Is there a continuing need for the Guide Concerning Fuel Economy Advertising for New Automobiles?

(a) What benefits has the Guide provided to purchasers of the product affected by the Guide?

(b) Has the Guide imposed costs on purchasers?

(2) What changes, if any, should be made to the Guide to increase the benefits of the Guide to purchasers? How would these changes affect the costs the Guide imposes on firms who conform to its advice? How would these changes affect the benefits to purchasers?

(3) What significant burdens or costs, including costs of compliance, has the Guide imposed on firms who conform to its advice? Has the Guide provided benefits to such firms? If so, what benefits?

(4) What changes, if any, should be made to the Guide to reduce the burdens or costs imposed on firms who conform to its advice? How would these changes affect the benefits provided by the Guide?

(5) Does the Guide overlap or conflict with other federal, state, or local laws or regulations?

(6) Since the Guide was issued, what effects have changes in relevant technology or economic conditions had on the Guide? Do sellers of automobiles use E-mail or the Internet to promote or sell by using fuel economy advertisements? Does the use of this new technology affect consumers' rights or advertisers' responsibilities under the Guide?

(7) Are there any abuses occurring in the promotion or advertising of fuel economy that are not covered by the Guide? If so, what mechanisms should be explored to address such abuses (*e.g.*, consumer education, industry self-regulation, revisions to the Guide)?

List of Subjects in 16 CFR Part 259

Advertising, Fuel economy, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–9842 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Fees for Applications for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed reduction of schedule of fees.

SUMMARY: The staff reviews periodically the Commission's actual costs of processing applications for contract market designation (17 CFR Part 5, Appendix B) and adjusts its schedule of fees accordingly. As a result of the most recent review, the Commission is proposing to establish reduced fees for a limited class of simultaneously submitted multiple contract designation application filings.

DATES: Comments must be received by May 24, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A., Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to *secretary@cftc.gov*. Reference should be made to Designation Fee Proposal.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, (201) 418–5275, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION:

I. History

On August 23, 1983, the Commission established a fee for contract market designation (48 FR 38214). The fee was based upon a three-year moving average of the actual costs and the number of contracts reviewed by the Commission during that period of time. The formula for determining the fee was revised in 1985. At that time, most of the designation applications were for futures contracts rather than option contracts, and the same fee was applied to both futures and option designation applications.

In 1992, the Commission reviewed its data on the actual costs for reviewing designation applications for both futures and option contracts and determined that the cost of reviewing a futures contract designation application was much higher than the cost of reviewing an option contract designation. It also determined that, when designation

applications for both a futures contract and an option on that futures contract are submitted simultaneously, the cost for reviewing both together was lower than for reviewing the contracts separately. Based on that finding, three separate fees were established—one for futures alone, one for options alone, and one for combined futures and option contract applications (57 FR 1372). The combined futures/option designation application fee is set at a level that is less than the aggregate fee for separate futures and option applications to reflect the fact that the cost for review of an option is lower when submitted simultaneously with the underlying future and to create an incentive for contract markets to submit simultaneously applications for futures and options on that future.

II. Proposed Further Modifications to Fee Structure

The Commission is proposing to further modify its fees structure for a limited class of multiple designation applications submitted simultaneously relating to contracts: (i) which are cash settled based on an index representing measurements to physical properties or financial characteristics which are not traded per se in the cash market; (ii) which use the same procedures for determining the cash-settlement values for all contracts in the filing; (iii) as to which the procedure for determining the values which vary for the individual cash settlement prices is objective and the individual contract values represent a spatial or other variant of that procedure or a larger of smaller multiplier; and (iv) as to which all other terms and conditions are the same.[1] Commission fees for simultaneous submission of such multiple cash-settled contracts would be equal to the prevailing fee for the the first contract plus 10 percent of that fee for each additional contract in the filing. This fee structure represents an extension of the policy adopted by the Commission in 1992 when it established reduced fees for option applications and for combined futures and option applications and would be consistent with the Commission's responsibility under the Independent Offices Appropriations Act (31 U.S.C. 9107 (1982)) to base fees on the costs to the Government.

The Commission believes that a 10 percent marginal fee for additional contracts in a filing is appropriate for applications submitted simultaneously that are eligible for the proposed multiple-contract filing fee. Because the multiple-contract filing fee applies only to cash-settled contracts based on objectively determined index values such that each separate contract represents only a spatial or other variant of that process and because the index is a measurement of a physical property or a financial characteristic which is not traded per se in the cash market, the Commission's review likely will not require a separate detailed analysis of each of the contracts in the filing. Moreover, for contracts meeting the standard for the multiple contract filing fee, the Commission's review of the cash settlement mechanism would involve a single analysis of the nature of the index and the process by which the underlying index values are determined. Separate comprehensive evaluations for each individuals index would not be required since the same calculations apply to each. Since the underlying instruments are not traded in the cash market, the Commission need not conduct separate reviews of the underlying cash markets or the reliability or transparency of prices for the individual commodities. Because each contract much use an identical case-settlement procedure and all other material terms and conditions must be the same (except for the differentiated term of the specified contract multiplier), the analysis of the cash settlement procedure for one contract would apply in large part to each of the additional contracts. Finally, because each contract in a filing must be differentiated only with respect to a single term or contract size feature that is not likely to affect the integrity of the cash settlement mechanism, each separate contract would not require a separate comprehensive analysis to ascertain its compliance with requirements for designation.

The Commission notes that, regardless of the fee assessed for designation applications, the Commission will continue to conduct the same comprehensive review to ensure that each proposed contract meets all requirements for designation set forth in Guideline No. 1. However, as explained above, for the types of applications covered by the multiple contract filing fee, the Commission's analysis of the cash settlement procedure in general and its review of the other material terms and conditions likely would be applicable to each contract in the filing. Only a limited incremental analysis would be required to assess whether each additional contract in such a filing meets the designation requirements of Guideline No. 1, resulting in a much higher degree of efficiency in reviewing the applications and substantially reducing the marginal cost for reviewing and processing the additional contracts. The Commission's extensive experience in reviewing new contract designation applications indicates that, for simultaneously submitted multiple contract filings meeting the specified standards, a fee for each additional contract equal to 10 percent of the single contract application fee would reflect the Commission's expected review costs for these types of applications. To the extent the Commission finds otherwise, this fee will be adjusted in subsequent years.

The Commission wishes to make clear that the reduced option fee for the limited class of multiple-designation applications applies only to options on futures applications and not to options on physicals applications.

Under the new procedures noted above, the Commission's proposed multiple contract designation application fees for filings meeting the standard discussed above would be as follows: For filings involving multiple cash-settled futures—$6,800 for the first contract, plus $680 for each additional contract; for filings involving multiple options on case-settled futures—$1,200 for the first contract, plus $120 for each additional contract; and for filings involving multiple combined cash-settled futures and options on those futures—$7,500 for the first futures and option contract, plus $750 for each additional futures and option contract. To be eligible for the reduced fees, contract markets must label the submission as a multiple contract filing and identify the cash settlement procedure to be used and the nature of the differentiated term or the different contract size specifications and justify why the application qualifies for this

[1] In this regard, contracts having differentiated spatial features include contracts that are identical in all respects including the cash settlement mechanism but which may be based on the application of differing objectively determined values for different geographical areas. These may include contracts on weather-related data or vacancy rates for rental properties, where each individual contract is based on the value—temperature, local vacancy rate, etc.—for a specific city. To be eligible for the multiple contract filing fee, each contract must be cash-settled based on the same underlying data source and derived under identical calculation procedures such that the integrity of the cash settlement mechanism is not dependent on the individual contract specifications and that values which vary are derived objectively using the same source of type of data. Thus, for example, applications containing a number of similar cash-settled contracts based on indexes of government debt of different foreign countries would not be eligible for the reduced fee since the manipulation potential of each contract would be related to the liquidity of the underlying instruments and the individual trading practices and governmental oversight in each specific country, requiring separate analyses.

reduced fee. The Commission is seeking comment on this multi-contract designation application fee proposal.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires agencies, in proposing rules, to consider the impact of those rules on small businesses. The fees implemented in this release affect contract markets (also referred to as ''exchanges'') and a registered futures association. The Commission has previously determined that contract markets and registered futures associations are not ''small entities'' for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 47 FR 18618 (April 30, 1982). Therefore, the Chairperson, on behalf of the Commission, certifies, pursuant to 5 U.S.C. 605(b), that the fees proposed herein will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on April 15, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–9940 Filed 4–21–99; 8:45 am]

BILLING CODE 6351–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 34–41288; FOIA–190; and PA–27; File No. S7–14–99]

RIN 3235–AH71

Amendments to the Commission's Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its Freedom of Information Act, Privacy Act, and confidential treatment rules because they are outdated in many respects. The proposed amendments would conform these rules to current statutory and case law and administrative practice.

DATES: Comments must be received by June 21, 1999.

ADDRESSES: You should send three copies of your comments to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Stop 0609, Washington, DC 20549–0609. You may also submit your comments electronically to the following electronic address: rule-comments@sec.gov. All comments letters should refer to File No. S7–14–99; you should also include this file number in the subject line if you use electronic mail. Comment letters will be available for public inspection and copying at our Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. We will post electronically-submitted comment letters on our Internet Web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Betty Lopez, FOIA/Privacy Act Officer (202) 942–4327; or Elizabeth T. Tsai, Staff Attorney, Office of Freedom of Information and Privacy Act Operations (202) 942–4326.

SUPPLEMENTARY INFORMATION:

I. Discussion of Rule Amendments

The Commission hereby proposes to amend its rules that allow persons to request records in its possession and request confidential treatment of records they submit to the Commission. The proposed amendments would make substantive and procedural changes to conform the rules to current statutory and case law and Commission practice. Other changes would correct clerical errors.

For example, under the proposed amendments, persons who voluntarily submit commercial or financial records to the Commission for which they are claiming confidentiality must stamp each page of the records ''Voluntarily Submitted'' in order to claim confidentiality under *Critical Mass Energy Project v. Nuclear Regulatory Comm'n.*[1] Also, requests for confidential treatment and substantiations of such requests would be deemed confidential and effective for five years from the date of their last submission unless renewed by the requester.

Specifically, the Commission proposes to amend 17 CFR 200.80, 200.83, and 200.301 *et seq.* These rules lay down the procedures for requesting records under the Freedom of Information Act (''FOIA'')[2] or the Privacy Act of 1974 (''Privacy Act'')[3] and allow persons to request confidential treatment for records they submit to the Commission.[4]

A. Confidential Treatment Requests

1. Background

The Commission has acquired, and will continue to acquire, a large number of records from private parties. Some of these records are regarded as very sensitive by the persons providing them. Yet, members of the public often want access to those records in the Commission's possession. Under the FOIA, a request for agency records by any person must be honored unless they are exempt from disclosure.[5]

Thus, the Commission must carefully weigh competing interests in fulfilling its obligation to disclose non-exempt records to the public under the FOIA, while preserving the legitimate interest of the submitter in keeping sensitive records confidential. The Commission wants to assure submitters of records that it will preserve the confidentiality of such records to the extent permitted by law and consistent with the Commission's responsibilities.[6] The Commission believes that the submission of records will be encouraged if the Commission maintains procedures that promote the fair evaluation of claims of confidentiality and enable it to determine which records may be withheld from disclosure under the FOIA.

To that end, in 1980, the Commission adopted confidential treatment procedures which apply to documents for which there is no other specific procedure to obtain confidentiality and which, in the normal course of Commission business, would not be placed in a public file.[7] The Commission amended these rules in 1982 to provide that, by delegated authority from the Commission, the General Counsel would decide confidential treatment appeals.[8]

One of the proposed amendments would implement the opinion of the District of Columbia Circuit in *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*,[9] in which the Court held that commercial or financial information, which is voluntarily submitted to an agency and is of a kind that the submitter would not customarily disclose to the public, is deemed confidential and, thus, exempt from disclosure under Exemption 4 of

[1] 975 F.2d 871, 880 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993).

[2] 5 U.S.C. 552.

[3] 5 U.S.C. 552a.

[4] 5 U.S.C. 552.

[5] *See* 5 U.S.C. 552(b) (FOIA exemptions).

[6] A grant of confidential treatment does not preclude appropriate disclosure of the information, such as to Congress or another governmental authority. Nor does it preclude disclosure under a court order or subpoena.

[7] *See* 45 FR 62418, Sept. 19, 1980. The rule requires persons wishing to make a request for confidential treatment to submit their request at the time the information is first provided to the Commission or as soon thereafter as possible.

[8] 47 FR 20287, May 12, 1982.

[9] 975 F.2d 871 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993).

the FOIA.[10] As a result of *Critical Mass*, the Commission is proposing new procedures to ensure that records voluntarily submitted are properly identified as such.

The proposed rule also addresses the confidentiality of requests for confidential treatment and substantiations submitted in support of such requests and requires that confidential treatment requesters renew their requests every five years. The Commission is also proposing certain other changes to conform the rule to current Commission practice. These rules are not intended to alter the substantive rights of any person to obtain or protect records under the FOIA or any other federal statute or regulation.

2. Significant Revisions in the Rule

a. Voluntarily Submitted Information

In *Critical Mass*, the United States Court of Appeals for the District of Columbia Circuit held ''that Exemption 4 protects any financial or commercial information provided to the Government on a voluntary basis if it is of a kind that the provider would not customarily release to the public.'' [11] Before *Critical Mass*, commercial or financial information was deemed confidential (and, thus, exempt) if it was likely that disclosure would ''impair the government's ability to obtain necessary information in the future'' or ''cause substantial harm to the competitive position of the person'' submitting the information. *National Parks & Conservation Ass'n v. Morton*.[12] Hence, *Critical Mass* applies to commercial or financial information submitted voluntarily to an agency, whereas *National Parks* remains applicable to such information required to be submitted to an agency.[13]

The Commission's proposed rule requires that submitters designate the records that they claim to be submitting voluntarily by clearly marking each page ''Voluntarily Submitted.'' In addition, the submitter must describe the circumstances under which the records were submitted to the Commission in sufficient detail to support the claim that they were voluntarily submitted. No decision whether the records were, in fact, submitted voluntarily will be made unless the Commission receives a FOIA request for those records.[14]

The Commission believes that this proposed rule comports with the present state of the law.[15] Moreover, it will facilitate prompt, efficient review by the FOIA Office and eliminate the need for the Commission to obtain after-the-fact information of the circumstances of voluntary submissions.[16] In short, the new rule should provide more accurate, reliable information in a manner that will facilitate timely responses by the FOIA Office to FOIA and confidential treatment requests.

b. Confidentiality of Confidential Treatment Requests and Substantiations

The Commission proposes to deem all confidential treatment requests confidential, even though historically the Commission has viewed such requests as unprotected by the FOIA.[17] Frequently, submitters seek confidential treatment of their confidential treatment requests because the requests, themselves, contain confidential competitive information or describe in detail the information for which they seek confidentiality.

In addition, the FOIA Office has been unable to assure confidential treatment requesters that their substantiations would be kept confidential during and after the processing of their confidential treatment requests. The lack of such assurance has, on occasion, resulted in vague, generalized, or incomplete substantiations by those who feared that a thorough substantiation would reveal confidential information.

The Commission now proposes to amend its rules so that confidential treatment requests and substantiations of confidential treatment requests will also be deemed confidential. This amendment would encourage persons requesting confidential treatment to submit full, detailed substantiations to demonstrate that the records should be withheld under FOIA Exemption 4.[18]

c. Expiration of Confidential Treatment Requests

The Commission often spends considerable time, effort, and expense in notifying persons requesting confidential treatment that it has received a FOIA request for the submitted records. Frequently, however, notifying requesters becomes impossible because counsel, company personnel, addresses, or telephone numbers have changed without notice to the FOIA Office.[19]

Moreover, it has been the Commission's experience that the need for confidential treatment often diminishes with the passage of time. Thus, the Commission believes that a rule designating an expiration date for confidential treatment requests five years after their receipt by the FOIA Office is appropriate.[20] To that end, the proposed amendment states that a confidential treatment request will expire five years after its receipt by the FOIA Office unless the person requesting confidentiality renews the request before its expiration date.

3. Other Procedural Provisions in the Confidential Treatment Rules

Under paragraph (c)(2) of the proposed rule, written requests for confidential treatment must refer to identifying numbers and codes placed on the records. While the current rule permits a submitter to attach a cover sheet rather than actually mark each page of the record, the FOIA Office has encountered difficulties determining which records are covered when this method is used. Therefore, the amended rule requires that all records covered by a confidential treatment request be marked ''Confidential Treatment requested by (name),'' accompanied by an identifying number and code on each page. Further, the confidential treatment request and any substantiation should specify by the identifying code the records they cover.

Finally, the FOIA Office will issue a preliminary decision to the person requesting confidential treatment under paragraph (e) of the proposed rule. The requester will then have ten calendar days after the preliminary decision to respond to the preliminary decision or to submit a supplemental substantiation if he or she desires. The Office of Freedom of Information and Privacy Act

[10] 975 F.2d at 879. Exemption 4 protects ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.'' 5 U.S.C. 552(b)(4).

[11] 975 F.2d at 880.

[12] 498 F.2d 765, 770 (D.C. Cir. 1974).

[13] 975 F.2d at 880.

[14] Indeed, the Commission resolves any request for confidential treatment only at such time as a FOIA request is made for the designated records.

[15] The Commission recognizes that the law relating to Exemption 4 of the FOIA is still developing and that the applicable standards may be further modified.

[16] The person requesting confidential treatment is responsible for substantiating his request, including any assertion that the provided confidential commercial or financial records are voluntarily submitted.

[17] *See* FOIA Rel. No. 65, May 5, 1983, 48 FR 21112.

[18] Nevertheless, if the FOIA requester or the confidential treatment requester files an action in Federal court, the confidential treatment request and its substantiation could become part of the court record.

[19] The Commission's existing confidential treatment rule requires notice of any change in address or telephone number of a confidential treatment requester. 17 CFR 200.83(c)(3). Persons requesting confidential treatment frequently fail, however, to comply with this requirement.

[20] *See* Executive Order No. 12,600, 3 CFR, 1987 Comp., p. 235, permits such time limits.

Operations may issue the final decision ten business days after the preliminary decision if that Office receives no supplemental substantiation within the time allowed. This change is intended to conform the rule to the Commission's current practice.

B. Amendments to Rules Regarding Commission Records and Information and the Privacy of Individuals

1. Commission Records and Information

The proposed amendments are designed to (1) implement the Electronic Freedom of Information Act Amendments of 1996 (''EFOIA'')[21] and the FOIA Reform Act of 1986 (''FOIA Reform Act''),[22] (2) clarify the methods used by the Commission to respond to FOIA requests, and (3) correct outdated information and certain typographical errors in the present regulations.

A number of the proposed amendments would conform 17 CFR 200.80 to the EFOIA. For example, in addition to (1) final opinions and orders, (2) statements of policy and interpretations adopted by the agency but not published in the **Federal Register**, and (3) staff manuals and instructions which must be available for inspection and copying in the public reference room,[23] EFOIA requires that each agency make available, (4) records processed and disclosed in response to a FOIA request when the agency determines that those records have become or are likely to become the subject of subsequent requests; and (5) a general index of such previously released records.[24] Moreover, as the EFOIA permits an agency to respond to a FOIA request within 20 business days of receipt of the request (rather than 10 days as previously mandated), the proposed amendments reflect the longer response time permitted by law.[25] Lastly, the EFOIA requires each agency to adopt rules for expedited processing of certain requests.[26]

As amended by the FOIA Reform Act, the FOIA authorizes agencies to recover review costs from commercial-use requesters.[27] Review costs are the direct costs incurred during the initial examination of a record to determine whether the record must be disclosed and whether to withhold any portion as exempt from disclosure.[28] The proposed amendment would add review fees to search and duplication fees now authorized under 17 CFR 200.80(e) and would codify the practice of charging review fees to commercial requesters.

The FOIA Reform Act also requires each agency to promulgate procedures and guidelines for determining when search, review, and duplication fees should be waived or reduced.[29] The proposed amendment provides that such fees will be waived or reduced if disclosure is in the public interest because it will likely contribute significantly to public understanding of government activities and is not primarily in the commercial interest of the requester. Moreover, the FOIA Reform Act extends the protection of Exemption 7 to all records or information that are compiled for law enforcement purposes, not merely investigatory records. As a result, the proposed amendment deletes the definition of ''investigatory records'' found in 17 CFR 200.80(b)(7)(ii).

Finally, because the Commission has rescinded certain rules mentioned in 17 CFR 200.80(b)(4)(ii), the proposed amendments would delete references to those rules.[30]

2. The Privacy of Individuals and Systems of Records

The proposed amendments would conform this rule to the current organization of the Commission and the systems of records it currently maintains. For example, certain systems of records deemed exempt from the Privacy Act[31] are no longer maintained by the Commission or have been merged into other systems. Consequently, the Commission proposes to amend § 200.313(a) to reflect these changes. In addition, the proposed amendments would conform the Commission's rules to a recent change in the case law regarding requests for information under the Privacy Act. In *Summers* v. *Dep't of Justice*,[32] the court held that a verification of an individual's identity for purposes of obtaining access to Privacy Act records need not be sworn or notarized if the unsworn statement complies with 28 U.S.C. 1746.[33] The proposed amendment would permit such an unsworn statement to verify an individual's identity.

II. Effects on Competition

Section 23(a)(2) of the Securities Exchange Act of 1934 (''Exchange Act'')[34] requires the Commission, in adopting rules under the Exchange Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits furthering the purposes of the Exchange Act. The Commission has considered these proposed amendments to 17 CFR 200.80, 200.83, and 200.301 *et seq.*, in light of the standards cited in section 23(a)(2), and believes that the amendments will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. The proposed amendments would merely conform the rules to current law, clarify document submission procedures, and help assure voluntary submitters of confidential commercial or financial information that the information they submit will not be readily available to competitors.

III. Statutory Basis of Rule

These amendments are proposed under the authority of the FOIA, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; the Administrative Procedure Act, 5 U.S.C. 553; section 19 of the Securities Act of 1933, 15 U.S.C. 77s; sections 23 and 24 of the Exchange Act, 15 U.S.C. 78w, 78x; section 20 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79t; section 319 of the Trust Indenture Act of 1939, 15 U.S.C. 77sss; section 38 of the Investment Company Act of 1940; 15 U.S.C. 80a–37; and section 211 of the Investment Advisers Act of 1940, 15 U.S.C. 80b–11.

IV. Initial Regulatory Flexibility Analysis

The Commission has prepared this initial regulatory flexibility analysis in accordance with 5 U.S.C. 603.

A. Reasons for Action

To update its regulations, the Commission is proposing to amend its rules to conform them to present Commission organization and practice and current statutory and case law.

B. Objectives and Legal Basis

These proposed amendments are designed to conform the Commission's rules to statutory changes in the FOIA, enhance public access to nonpublic records in the Commission's possession which do not contain confidential

[21] Pub. L. 104–231, 110 Stat. 3048 (1996).
[22] Pub. L. 99–570, 100 Stat. 3207 (1986).
[23] *See* 5 U.S.C. 552(a)(2).
[24] *See* 5 U.S.C. 552(a)(2)(D) and (E).
[25] 5 U.S.C. 552(a)(6)(A)(i).
[26] 5 U.S.C. 552(a)(6)(E).
[27] 5 U.S.C. 552(a)(4)(A)(ii)(I).
[28] 5 U.S.C. 552(a)(4)(A)(iv).
[29] Freedom of Information Reform Act of 1986, Pub. L. 99–570, sec. 1803, 100 Stat. 3207–1, 49 (1986) (amending 5 U.S.C. 552(a)(4)(A)).
[30] The Commission has rescinded two of the rules referred to in 17 CFR 200.80(b)(4)(ii):
17 CFR 240.17a–9 (*See* Rel. 34–18108, Sept. 21, 1981, 46 FR 49114); and
17 CFR 240.17a–16 (*See* Rel. 34–20121, Aug. 26, 1983, 48 FR 39604).
[31] *See* 17 CFR 200.313(a).
[32] 999 F.2d 570 (D.C. Cir. 1993).
[33] Section 1746 permits an unsworn statement when subscribed as true under penalty of perjury if written in the particular format set forth in the statute.
[34] 15 U.S.C. 78w(a)(2).

commercial or financial information, and improve statutory safeguards to protect individuals from an invasion of their personal privacy. This action is authorized by 5 U.S.C. 552, 5 U.S.C. 552a, and Executive Order 12,600.

C. Small Entities Affected

The proposed changes will affect all small entities requesting Commission records under the FOIA or requesting confidential treatment for information that they submit to the Commission. The Commission believes that the burden imposed on small entities as a result of these proposed amendments will be negligible. There is no reasonable method for estimating the number of entities involved.

D. Compliance Requirements

There will be no additional reporting, recordkeeping, or other compliance requirements.

E. Duplicative, Overlapping, or Conflicting Rules

The Commission believes that there are no duplicative, overlapping, or conflicting federal rules.

F. Significant Alternatives

There are no significant alternatives to the proposed amendments that would accomplish the stated objectives of applicable statutes and executive order.

G. Solicitation of Comments

You may submit written comments on this Initial Regulatory Flexibility Analysis by sending three copies of your submission to: Office of the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609.

You may also e-mail your comments to rule-comments@sec.gov. Please note on the first page of your submission that it relates to File No. S7–14–99. Your comments will be available for public inspection and copying at the Commission's Public Reference Room at 450 Fifth Street, NW, Washington, DC 20549. We will consider your comments when we prepare the Final Regulatory Flexibility Analysis in connection with the adoption of the final rules.

List of Subjects in 17 CFR Part 200

Administrative practice and procedures; Classified information; Freedom of information; Privacy.

Text of Amendments to 17 CFR Part 200

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart D—Information and Requests

1. The authority citation for part 200, subpart D is revised to read as follows:

Authority: 5 U.S.C. 552, as amended, 15 U.S.C. 77f(d), 77s, 77ggg(a), 78m(F), 78w, 79t, 79v(a), 77sss, 80a–37, 80a–44(a), 80a–44(b), 80b–10(a), and 80b–11.

§ 200.80 also issued under 5 U.S.C. 552b; 15 U.S.C. 78d–1, 78d–2; 78a *et seq.*; 11 U.S.C. 901, 1109(a).

§ 200.80a also issued under 5 U.S.C. 552b.

§§ 200.80b and 200.80c also issued under 11 U.S.C. 901, 1109(a).

§ 200.82 also issued under 15 U.S.C. 78n.

§ 200.83 also issued under Exec. Order 12,600, 3 CFR, 1987 Comp., p. 235.

§ 200.80 [Amended]

2. Amend § 200.80 by adding ''Northeast and Midwest'' before the phrase ''Regional Offices'' in the introductory text of paragraph (a)(2), removing the word ''and'' at the end of paragraph (a)(2)(iv), removing the period at the end of paragraph (a)(2)(v) and adding in its place ''; and''; adding paragraph (a)(2)(vi) and republishing paragraph (a)(2) to read as follows:

§ 200.80 Commission records and information.

(a)(1) * * *

(2) *Records available for public inspection and copying; documents published and indexed.* * * *

(vi) Copies and a general index of all records which have been released to any person under the Freedom of Information Act and which, because of the nature of their subject matter, the Commission determines have become or are likely to become the subject matter of subsequent requests for substantially the same records.

* * * * *

3. Amend § 200.80 by redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(4) and (a)(5), correcting ''secton'' to read ''section'' in the first sentence of newly redesignated paragraph (a)(4), and adding new paragraph (a)(3) to read as follows:

§ 200.80 Commission records and information.

(a)(1) * * *

(3) Records created on or after November 1, 1996, which are required to be available for public inspection and copying under paragraph (a)(2) of this section, shall be made available on the Internet.

* * * * *

4. Amend § 200.80, paragraph (b)(4)(ii), by correcting ''pursant'' to read ''pursuant''; by revising the phrase ''15c3–1(c)(7)(G)'' to read ''15c3–1d(c)(6)(i)''; by revising the phrase ''17 CFR 240.15c–1(c)(7)(vii)'' to read ''17 CFR 240.15c3–1d(c)(6)(i)''; by revising the phrase ''Rules 17a–9, 17a–10, 17a–12 and 17a–16'' to read ''Rules 17a–10 and 17a–12''; and by revising the phrase ''17 CFR 240.17a–9, 240.17a–10, 240.17a–12, and 240.17a–16'' to read ''17 CFR 240.17a–10 and 240.17a–12''.

5. Amend § 200.80 by removing paragraph (b)(7)(ii); by redesignating the introductory text of paragraph (b)(7)(i) as paragraph (b)(7) and paragraphs (b)(7)(i)(A) through (F) as paragraphs (b)(7)(i) through (b)(7)(vi); by revising the word ''State'' to read ''state'' in newly redesignated paragraph (b)(7)(iv); and by adding a comma after the word ''examination'' in paragraph (b)(8).

6. Amend § 200.80(c)(1) as follows:

a. In paragraph (c)(1) introductory text, first sentence, remove the numbers ''(202–272–3100)'' and revise the phrase ''New York and Chicago regional offices'' to read ''Northeast and Midwest Regional Offices''; and, in the second sentence, revise the phrase ''8½ x 14'' to read ''8½ x 11'' and the phrase ''New York and Chicago offices'' to read ''Northeast and Midwest Regional Offices'';

b. In paragraph (c)(1)(i), second sentence, revise the phrases ''regional offices in New York or Chicago'' to read ''Northeast and Midwest Regional Offices'';

c. In paragraph (c)(1)(iii), first sentence, revise the phrase ''New York and Chicago regional offices'' to read ''Northeast and Midwest Regional Offices''; and, in the second sentence, revise the term ''suite'' to read ''Suite'' each time it appears in the list of Commission offices and, for the Southeast Regional Office, revise the phrase ''8:30 a.m. to 5 p.m.'' to read ''9:00 a.m. to 5:30 p.m.''.

7. Amend § 200.80(c)(2), first sentence, by revising the phrase ''or by telephone'' to read ''or in writing''; in the second sentence, by removing the phrase ''and telephone numbers''; and, in the third sentence, by revising the phrase ''a particular regional office'' to read ''the Northeast or Midwest Regional Office''.

8. Amend § 200.80(d)(1), first sentence, by adding the word ''the'' after the phrase ''by mail directed to''; in the second sentence, by adding the word ''the'' after the phrase ''not available in''; in the third sentence, by revising the phrase ''Securities and Exchange Commission, Washington, DC 20549'' to read ''SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413''; and by adding a sentence

at the end of paragraph (d)(1) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *—(1) * * * The request may also be made by facsimile (703–914–1149) or by Internet (foia/pa@sec.gov).

* * * * *

9. Revise § 200.80(d)(5) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(5) *Initial determination; multi-track processing, and denials.—(i) Time within which to respond.* When a request complies with the procedures in this section for requesting records under the Freedom of Information Act, a response shall be sent within 20 business days from the date the Office of Freedom of Information and Privacy Act Operations receives the request, except as described in paragraphs (d)(5)(ii) and (d)(5)(iii) of this section. If that Office has identified the requested records, the response shall state that the records are being withheld, in whole or in part, under a specific exemption or are being released.

(ii) *Voluminous records.* When the requested records are so voluminous that they cannot be reviewed within 20 business days, as prescribed in paragraph (d)(5)(i) of this section, the Office of Freedom of Information and Privacy Act Operations shall inform the requester of their approximate volume, give the requester the choice of having the records included in the Commission's first-in, first-out (FIFO) system for reviewing voluminous records, and state the approximate time when the review will start. A requester may modify or limit his or her request to qualify for review within 20 business days.

(iii) *Expedited processing.* The Office of Freedom of Information and Privacy Act Operations shall grant a request for expedited processing if the requester demonstrates a compelling need for the records. ''Compelling need'' means that a failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to an individual's life or physical safety or, if the requester is primarily engaged in disseminating information, an urgency to inform the public of actual or alleged Federal government activity. A compelling need shall be demonstrated by a statement, certified to be true and correct to the best of the requester's knowledge and belief. The Office of Freedom of Information and Privacy Act Operations shall notify the requester of the decision to grant or deny the request for expedited treatment within 10 days of the date of the request. A request for records that has been granted expedited processing shall be processed as soon as practicable.

(iv) *Notice of denial.* Any notification of denial of any request for records shall state the name and title or position of the person responsible for the denial of the request, the reason for the decision, and the right of the requester to appeal to the General Counsel. The decision shall estimate the volume of records that are being withheld in their entirety, unless giving such an estimate would harm an interest protected by the applicable exemption. The amount of information redacted shall be indicated on the released portion of the record and, if technically feasible, at the place where the redaction is made.

(v) *Form of releasable records.* Releasable records shall be made available in any form or format requested if they are readily reproducible in that form or format.

* * * * *

10. Revise the introductory text of § 200.80(d)(6) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(6) *Administrative review.* Any person who has received no response to a request within the period prescribed in paragraph (d)(5) of this section or within an extended period permitted under paragraph (d)(7) of this section, or whose request has been denied under paragraph (d)(5) of this section, may appeal the adverse decision or failure to respond to the General Counsel.

* * * * *

11. Revise § 200.80(d)(6)(ii) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(6) * * *

(ii) The appeal must be mailed to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413 or delivered to Room 1418 at that address, and a copy of it must be mailed to the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549 or delivered to Room 1012–B at that address.

12. Amend § 200.80, paragraph (d)(7), introductory text, first sentence, by revising the word ''reasons'' to read ''unusual circumstances''; second sentence, by revising the phrase ''working days'' to read ''business days, except as provided in paragraph (d)(8) of this section''.

13. Revise § 200.80(d)(8), introductory text, to read as follows:

§ 200.80 Commission records and information.

* * * * *

(d) * * *

(8) *Inability to meet time limits.* If a request for records cannot be processed within the time prescribed under paragraph (d)(7) of this section, the Commission shall so notify and give the requester an opportunity to modify the request so that it may be processed within that time or to arrange an alternative time for processing the request or a modified request. An unreasonable refusal to modify a request or arrange an alternative time for processing the request shall be a factor in determining whether unusual circumstances exist under paragraph (d)(7) of this section.

* * * * *

14. Amend § 200.80(d)(9) by removing the heading ''*Oral requests; misdirected written requests*''; removing paragraph (d)(9)(i); and redesignating paragraph (d)(9)(ii) as paragraph (d)(9).

15. Amend § 200.80(e), introductory text, first sentence, by adding after the word ''locating'' the word '', reviewing,''.

16. Amend § 200.80(e)(1), first sentence, by adding the words ''and reviewing'' immediately after the words ''searching for''.

17. Amend § 200.80(e)(3), first sentence, by adding the phrase '', reviewing'' immediately after the word ''locating''; and third sentence, by revising the figure ''$25'' to read ''$28'' and the word ''advised'' to read ''informed''.

18. Amend § 200.80, by revising paragraph (e)(4) to read as follows:

§ 200.80 Commission records and information.

* * * * *

(e) * * *

(4) *Waiver or reduction of fees.* (i) The Office of Freedom of Information and Privacy Act Operations may waive or reduce search, review, and duplication fees if:

(A) Disclosure of the requested records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(B) Disclosure is not primarily in the commercial interest of the requester.

(ii) The Office of Freedom of Information and Privacy Act Operations will determine whether disclosure is likely to contribute significantly to public understanding of the operations or activities of the government based upon four factors:

(A) Whether the subject of the requested records concerns the operations and activities of the Federal government;

(B) Whether the requested records are meaningfully informative on those operations or activities so that their disclosure would likely contribute to increased public understanding of specific operations or activities of the government;

(C) Whether disclosure will contribute to the understanding of the public at large, rather than the understanding of the requester or a narrow segment of interested persons; and

(D) Whether disclosure would contribute significantly to public understanding of the governmental operations or activities.

(iii) The Office of Freedom of Information and Privacy Act Operations will determine whether disclosure of the requested records is not primarily in the commercial interest of the requester based upon two factors:

(A) Whether disclosure would further any commercial interests of the requester, and

(B) Whether the public interest in disclosure is greater than the requester's commercial interest.

(iv) If only a portion of the requested records satisfies both the requirements for a waiver or reduction of fees, a waiver or reduction of fees will be granted for only that portion.

(v) A request for a waiver or reduction of fees may be a part of a request for records. Such requests should address all the factors identified in paragraphs (e)(4)(ii) and (e)(4)(iii) of this section.

(vi) Denials of requests for a waiver or reduction of fees may be appealed to the General Counsel in accordance with the procedure set forth in paragraph (d)(6) of this section.

* * * * *

19. Amend § 200.80, paragraph (e)(7)(i), first sentence, by revising the phrase ''New York, or Chicago'' to read ''Northeast, or Midwest'' and by removing the word ''Branch''; and paragraph (e)(7)(ii), last sentence, by removing ''or calling this facility at 202–272–3100''.

20. Amend § 200.80, paragraph (e)(8)(iii), second sentence, by adding ''U.S.'' before ''Government Printing Office''.

21. Amend § 200.83, by revising paragraphs (c)(2) through paragraphs (c)(6) and adding paragraphs (c)(7), (c)(8), and (c)(9) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(c) *Written request for confidential treatment to be submitted with information.* (1) * * *

(2) A person who submits a record to the Commission for which he or she seeks confidential treatment must clearly mark each page or segregable portion of each page with the words ''Confidential Treatment Requested by [name]'' and an identifying number and code. In his or her written confidential treatment request, the person must refer to the record by identifying number and code.

(3) A person who submits a record to the Commission voluntarily and requests confidential treatment of it, must comply with paragraph (c)(2) of this section and mark each page clearly with the words ''Voluntarily Submitted.'' In the written confidential treatment request, the person must explain the circumstances under which the record was voluntarily submitted to the Commission. The burden is on the person requesting confidential treatment to show that the record was submitted voluntarily.

(4) In addition to giving a copy of any written request for confidential treatment to the Commission employee receiving the record in question, the person requesting confidential treatment must send a copy of the request (but not the record) by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413. The legend ''FOIA Confidential Treatment Request'' must clearly and prominently appear on the top of the first page of the written request, and the written request must contain the name, address, and telephone number of the person requesting confidential treatment. The person requesting confidential treatment is responsible for informing the Office of Freedom of Information and Privacy Act Operations promptly of any changes in address, telephone number, or representation.

(5) In some circumstances, such as when a person is testifying in the course of a Commission investigation or providing a record requested in the course of a Commission examination or inspection, it may be impracticable to submit a written request for confidential treatment at the time the record is first given to the Commission. In no circumstances can the need to comply with the requirements of this section justify or excuse any delay in submitting any record to the Commission. The person testifying or otherwise submitting the record must inform the Commission employee receiving it, at the time the record is submitted or as soon thereafter as possible, that he or she is requesting confidential treatment. The person must then submit a written confidential treatment request within 30 days from the date of the testimony or the submission of the record. Any confidential treatment request submitted under this paragraph must also comply with paragraph (c)(4) of this section.

(6) Where confidential treatment is requested by the submitter on behalf of another person, the request must identify that person and provide the telephone number and address of that person or the person's responsible representative if the submitter would be unable to provide prompt substantiation of the request at the appropriate time.

(7) No determination on a request for confidential treatment will be made until the Office of Freedom of Information and Privacy Act Operations receives a request for disclosure of the record.

(8) A confidential treatment request will expire five years from the date the Office of Freedom of Information and Privacy Act Operations receives it, unless that Office receives a renewal request before the confidential treatment request expires. The renewal request must be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, and must clearly identify the record for which confidential treatment is sought. A renewal request will likewise expire five years from the date that Office receives it, unless that Office receives another timely renewal request which complies with the requirements of this paragraph.

(9) A confidential treatment request shall be confidential. If an action is filed in a Federal court, however, by either the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(d)(6)) or by the confidential treatment requester (under paragraph (e)(5) of this section), the confidential treatment request may become part of the court record.

* * * * *

22. Amend § 200.83, paragraph (d)(1), by revising the phrase ''telegram or express'' to read ''facsimile or certified'' and by adding a sentence to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(d) *Substantiation of request for confidential treatment.* (1) * * * Failure to submit a written substantiation within ten calendar days from the time of notification, or any extension thereof, may be deemed a waiver of the confidential treatment request and the confidential treatment requester's right to appeal an initial decision denying confidential treatment to the Commission's General Counsel as permitted by paragraph (e) of this section.

* * * * *

23. Revise § 200.83, paragraph (e)(1), to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(e) *Appeal from initial determination that confidential treatment is not warranted.* (1) The Office of Freedom of Information and Privacy Act Operations will issue a preliminary decision that will inform the confidential treatment requester whether that Office is of the view that confidential treatment is warranted with respect to all or part of the records in question. The preliminary decision may ask the confidential treatment requester to submit a supplemental substantiation within ten calendar days from the date of notice of the preliminary decision. The confidential treatment requester may respond to the preliminary decision within ten business days of receipt. The Office of Freedom of Information and Privacy Act Operations may issue a final decision no sooner than ten business days after giving notice of the preliminary decision. It shall inform, by mail or facsimile, the person seeking the record under the Freedom of Information Act and the person requesting confidential treatment of the final decision and of their right to appeal the decision to the Commission's General Counsel within ten calendar days from the date of the final decision. Records which the Office of Freedom of Information and Privacy Act Operations determines are not entitled to confidential treatment may be released under the Freedom of Information Act no sooner than ten calendar days after the date of the final decision unless, within those ten calendar days, it receives an appeal from the confidential treatment requester. In such a case, the person seeking the information under the Freedom of Information Act will be informed of the pending appeal and that no disclosure of the records will be made until the appeal is resolved.

* * * * *

24. Amend § 200.83, paragraph(e)(2), by revising the second sentence and adding a third sentence to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(e) *Appeal from initial determination that confidential treatment is not warranted.* (1) * * *

(2) * * * The appeal must be sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149). A copy of the appeal must be mailed to the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0606.

* * *

25. Amend § 200.83, paragraph(e)(4), first sentence, by revising the phrase ''telegram or express'' to read ''facsimile or certified''.

26. Amend § 200.83, paragraph (e)(5), last sentence, by revising the phrase ''telegram or express'' to read ''facsimile or certified''.

27. Amend § 200.83 by redesignating paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j); by revising the phrase ''(c)(4)'' in newly redesignated paragraph (h)(1) to read ''(c)(5)''; by revising the phrase ''(g)(1)'' in the first sentence of newly redesignated paragraph (h)(2) to read ''(h)(1)''; by removing the commas after ''extended'' and ''Officer'' in newly redesignated paragraph (i), and adding new paragraphs (g) and (k) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(g) *Confidentiality of substantiations.* Confidential treatment requests and substantiations of requests for confidential treatment shall be confidential. If an action is filed in a Federal court, however, by either the Freedom of Information Act requester (under 5 U.S.C. 552(a)(4) and § 200.80(d)(6)) or by the person requesting confidential treatment (under paragraph(e)(5) of this section), the substantiations may become part of the court record.

* * * * *

(k) In their discretion, the Commission, the Commission's General Counsel, and the Freedom of Information Act Officer may use alternative procedures for considering requests for confidential treatment.

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

28. The authority citation for Part 200, Subpart H continues to read in part as follows:

Authority: 5 U.S.C. 552a(f), unless otherwise noted.

* * * * *

§ 200.303 Amended

29. Amend § 200.303, paragraph (a), introductory text, by revising the clause ''by the individual in person during normal business hours at the Commission's Public Reference Room which is located at 450 Fifth Street, NW., Room 1024, Washington, DC, or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, DC 20549'' to read ''by mail to the Privacy Act Officer, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149)''.

30. Amend § 200.303, paragraph(a)(2), second sentence, by revising the phrase ''Commission's Public Reference Room located at 450 Fifth Street, NW., Room 1024, Washington, DC,'' to read ''Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413,''; revising ''suite'' to read ''Suite'' each time it appears in the list of Commission offices; for the Southeast Regional Office, revising the phrase ''8:30 a.m. to 5 p.m.'' to read ''9:00 a.m. to 5:30 p.m.''; for the Central Regional Office, revising the acronym ''C.S.T.'' to read ''M.S.T.''; and, in the last sentence of the concluding paragraph, adding immediately after ''New Year's Day,'' the phrase ''Martin Luther King, Jr.'s Birthday,''.

31. Amend § 200.303(a)(3), first sentence, by revising the phrase ''For the purpose of verifying his identity, an'' to read ''An''.

32. Revise § 200.303(a)(4) to read as follows:

§ 200.303 Times, places, and requirements for requests pertaining to individual records in a record system and for the identification of individuals making requests for access to the records pertaining to them.

(a) * * *

(4) *Method for verifying identity by mail.* Where an individual cannot appear at one of the Commission's Offices for the purpose of verifying his identity, he must submit along with the request for information or access, a statement attesting to his identity.

Where access is being sought, the statement shall include a representation that the records being sought pertain to the individual and a statement that the individual is aware that knowingly and willfully requesting or obtaining records pertaining to an individual from the Commission under false pretenses is a criminal offense. This statement shall be a sworn statement, or in lieu of a sworn statement, an individual may submit an unsworn statement to the same effect if it is subscribed by him as true under penalty of perjury, dated, and in substantially the following form:

(i) If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.''

Executed on (date)

(Signature)

(ii) If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.''

Executed on (date)

(Signature)

33. Amend § 200.303, paragraph (b)(2), first sentence, by revising the phrase ''Commission's Public Reference Room in Washington DC'' to read ''Office of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413''.

34. Revise § 200.306(a), introductory text, to read as follows:

§ 200.306 Requests for amendment or correction of records.

(a) *Place to make requests.* A written request by an individual to amend or correct records pertaining to him or her may be hand delivered during normal business hours to the SEC Operations Center, Room 1418, 6432 General Green Way, Alexandria, VA 22312–2414, or be sent by mail to the Office of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149).

* * * * *

35. Amend § 200.308, paragraph (a), introductory text, by revising the phrase ''Commission's staff'' to read ''Office of Information and Privacy Act Operations'' and revising the phrase ''by applying for an order of the General Counsel determining and directing that access to the record be granted or that the record be amended or corrected in accordance with his request'' to read ''to the General Counsel''.

36. Amend § 200.308, paragraph (a)(1), by revising the word ''application'' to read ''appeal''.

37. Revise § 200.308, paragraph (a)(2), to read as follows:

§ 200.308 Appeal of initial adverse agency determination as to access or as to amendment or correction.

(a) * * *

(2) The appeal shall be delivered or sent by mail to the Office of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149).

* * * * *

38. Amend § 200.308, paragraph (a)(9)(ii) by adding the phrase ''or her'' immediately after the word ''His''.

39. Amend § 200.308, paragraph (b)(1), first sentence, by revising the phrase ''to the Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street NW., Room 1024, Washington, DC 20549, or mailed to the Privacy Act Officer, Securities and Exchange Commission, Washington, DC 20549,'' to read ''or sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149),''.

§ 200.310 [Amended]

40. Amend § 200.310, paragraph(a), first sentence, by revising the phrase ''made in person during normal business hours at the Public Reference Room at 450 Fifth Street, NW., Room 1024, Washington, DC, or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, DC 20549'' to read ''sent by mail to the Office of Freedom of Information and Privacy Act Operations, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413, or by facsimile (703–914–1149)''; and by removing the last sentence.

41. Amend § 200.310, paragraph (b), by revising the phrase ''the Director of the Office of Consumer Affairs and Information Services'' to read ''the Privacy Act Officer'' and adding the phrase ''or she'' immediately after the word ''he''.

42. Amend § 200.312 by revising paragraphs (a)(1) through (a)(8) to read as follows:

§ 200.312 Specific exemptions.

* * * * *

(a) * * *

(1) Enforcement Files;

(2) Office of General Counsel Working Files;

(3) Office of the Chief Accountant Working Files;

(4) Name-Relationship Index System;

(5) Rule 102(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission; and

(6) Agency Correspondence Tracking System.

* * * * *

By the Commission.

Dated: April 14, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9905 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 204

RIN 1010–AC30

Accounting Relief for Marginal Properties

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule; notice of extension of public comment period.

SUMMARY: The Minerals Management Service hereby gives notice that it is extending the public comment period on a notice of proposed rule, which was published in the **Federal Register** on January 21, 1999, (64 FR 3360). The proposed rule would implement legislation for Federal oil and gas leases. The new regulations would explain to lessees and their designees how to obtain accounting and auditing relief for Federal marginal properties. In response to requests for additional time, MMS will extend the comment period for 15 days.

DATES: Comments must be submitted on or before May 6, 1999.

ADDRESSES: Written comments, suggestions, or objections regarding this proposed amendment should be sent to the following addresses: E-mail address is: RMP.comments@mms.gov.

For comments sent via the U.S. Postal Service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165.

For comments via courier or overnight delivery service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, MS 3021, Building 85, Denver Federal Center, Room A–212, Denver, Colorado 80225–0165.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, phone (303) 231–

3432, FAX (303) 231–3385, e-Mail David__Guzy@mms.gov.

Dated: April 19, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–10166 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–6326–6]

RIN 2060–AI48

Revisions to Reference Method for the Determination of Fine Particulate Matter as $PM_{2.5}$ in the Atmosphere

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: A new national network of fine particulate monitors is being established over the next two years. In order to assure that monitoring data are of the highest quality and are comparable both within and between air monitoring agencies, many specific design and performance requirements were detailed in 40 CFR part 50, appendix L. Other requirements were set forth in documents such as section 2.12 of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods,'' EPA/600/R–94/038b.

This action proposes to revise two requirements for measurement of fine particulate in 40 CFR part 50. For transport of exposed filters from the sample location to the conditioning environment, 40 CFR part 50 will no longer specify that the protective shipping container be made of metal. For verification of sampler flow rate, 40 CFR part 50 will now specify that new calibrations shall be performed if the reading of the sampler's flow rate indicator or measurement device differs by more than +/−4 percent or more from the flow rate measured by the flow rate standard. The flow rate verification tolerance was previously set at +/−2 percent. Because the Agency views this action as a noncontroversial amendment and anticipates no adverse comments, the EPA is approving the amendment to 40 CFR part 50 as a direct final rule without prior proposal. A detailed rationale for this action is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Comments must be submitted on or before May 24, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air Docket (A–95–54), US Environmental Protection Agency, Attn: Docket No. A–95–54, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tim Hanley, Emissions, Monitoring, and Analysis Division (MD–14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541–4417, e-mail: hanley.tim@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: April 9, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–9594 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking submitted by Mr. Keith Gross to initiate an investigation to evaluate and regulate the ''high profile gas tank design'' on motorcycles relating to the rider's injury potential during a frontal crash. Specifically, Mr. Gross noted that Kawasaki does not crash test their Ninja model motorcycle to evaluate the effect that a high profile gas tank design has on the rider during a crash. Mr. Gross provided insufficient information to support his contention that the high profile fuel tank design on motorcycles presents a safety problem warranting investigation and possible regulation. Further, available data reviewed by NHTSA do not show that Kawasaki motorcycle riders suffered more injuries than other motorcycle riders.

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Dr. William J.J. Liu, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590. Telephone: (202) 366–4923. Facsimile (202) 366–4329. *For legal issues:* Ms. Nicole Fradette, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590. Telephone: (202) 366–2992. Facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION: By petition dated September 1, 1997, Mr. Keith Gross requested NHTSA to evaluate the effect that high profile gas tank designs have on a rider's injury potential during a frontal motorcycle crash and to promulgate a Federal motor vehicle safety standard to reduce the risk of injury to the driver. The petitioner asserted that a driver was more likely to suffer an injury in a frontal collision if the driver were operating a motorcycle with a high profile fuel tank design, than one with a ''tear drop'' fuel tank design, i.e., a wide-based gas tank design that rises gradually above the seat of the motorcycle. The high profile gas tanks rise up abruptly by approximately 3 to 4 inches above the level of the seat and the upper surface of these gas tanks differs from that of other gas tanks.

Mr. Gross explained that, in a frontal collision, motorcycle riders move forward and contact both the gas tank and the handle bars before being separated from the motorcycle. The petitioner stated that high profile gas tank designs serve to enhance the maneuverability and handling of sporty motorcycles. However, the high profile gas tank designs prevent a rider's pelvis from sliding forward in a frontal crash. According to Mr. Gross, this impediment forces the rider's upper body to rotate against the gas tank, delaying separation and increase the potential for head and neck injuries. The petitioner explained that the more traditional ''tear drop'' wide-based gas tank design minimizes the risk of a groin injury to the rider by facilitating the rider's separation from the motorcycle without interference from the gas tank. Mr. Gross noted that neither Kawasaki nor the Department of Transportation (DOT) have crash tested a motorcycle to determine how much

force the male pelvis/groin can tolerate before permanent injury (such as impotence or infertility) can occur.

The petitioner also argued that the risk of a post-collision motorcycle fire was greater with a high profile fuel tank design than with other fuel tank designs, such as a tear drop fuel tank. The petitioner based this argument on the alleged greater tendency of a high profile engine to detach from a motorcycle in a frontal collision, thereby increasing the potential for a fuel tank fire. Specifically, the petitioner suggested that this would occur in a frontal crash because opposing pressure would be exerted on the fuel tank from both the front (from the force generated by the crash) and the rear (from the force generated from the rider's forward motion), thereby causing the tank to disengage and spill fuel.

The petitioner claimed that Kawasaki and other manufacturers continue to use the high profile gas tank design without conducting frontal crash tests because the agency does not have a crashworthiness standard to cover this area. The petitioner requested the agency to initiate an investigation to evaluate and to regulate the high profile gas tank design on motorcycles.

NHTSA is responsible for issuing and enforcing Federal motor vehicle safety standards (FMVSS) to deal with safety problems on our nation's highways. Before promulgating or amending a vehicle safety requirement, NHTSA must decide that a safety problem exists, that the problem is significant enough to warrant regulation, and that the requirement would reduce the problem and thus meet the need for motor vehicle safety. In this instance, NHTSA has found no basis for concluding that there is a safety problem of any significance with respect to ''the high profile gas tank design'' on motorcycles.

The petitioner asserted that the high profile gas tank design is detrimental to a rider's safety in a frontal collision; however, he did not provide sufficient data to substantiate that rider injuries were caused by such a design. In fact, the petitioner did not provide any data indicating that more rider injuries were caused by such a design. In that regard, the petitioner has not established a safety problem related to the high profile gas tank design on motorcycles.

NHTSA's consumer complaint files could not establish a safety problem caused by the high profile gas tank design on motorcycles. Specifically, NHTSA's consumer compliant files showed no complaints on Kawasaki motorcycles related to riders impacting the gas tank of the motorcycle or causing the tank to disengage and spill fuel as suggested by the petitioner. There were 35 fuel system related complaints, only one had a fuel tank puncture in a frontal crash with no fire—a 1991 Harley Davidson FXRS model. There were four non-collision fires—a 1994 Harley Davidson XL model (a loose fuel tank problem), a 1994 Kawasaki EX500 model (electrical short), a 1991 Kawasaki, Kawasaki model (oil pump problem), and a 1994 Yamaha EZR600 model (electrical short). There was no fuel system related complaints on Kawasaki Ninja model.

Further, NHTSA's motorcycle crash data indicate that Kawasaki riders did not suffer more groin injuries than riders of other motorcycles. Available data from several states showed that about 5.5% of all the injured motorcycle riders as compared to about 3.4% of Kawasaki injured riders, suffered groin injuries. There was no specific information on models or fuel tank designs.

Finally, the agency also reviewed medical literature concerning motorcycle rider groin injuries due to frontal crashes. Most of the medical literature data was found in foreign publications. The reviewed literature showed that about 5.5% of injured patients with a pelvic fracture were motorcycle riders. Although the reviewed medical literature also showed that motorcycle fuel tanks can contribute to serious groin injuries in frontal impacts, the literature did not indicate that the fuel tanks of Kawasaki Ninja model (high profile gas tank designs) or other Kawasaki models are involved in more pelvic fracture injuries (groin injuries) in crashes than other motorcycles. In the reviewed medical literature, the types and attributes of the fuel tanks responsible for injury mechanisms or the impact velocities of the crashes were not reported.

Although, currently NHTSA does not have a safety standard applicable to motorcycle fuel tanks, the agency has sponsored motorcycle crashworthiness and fuel system integrity test programs. These activities have induced the manufacturers to adopt safer fuel tank designs such as the ''tear drop'' tank design, the recessed filler cap design, the tank rupture resistance against fuel spillage design. The following are examples of NHTSA sponsored research addressing these issues: (1) a research program with 27 motorcycle crashes to study the safety aspects of motorcycle design and crash configurations, including frontal impacts, ''Dynamics of Motorcycle Impact, Volume II—Motorcycle Crash Test Program,'' by P.W. Bothwell, R.E. Knight, and H.C. Peterson, University of Denver, Denver Research Institute, Final Report, Contract No. FH–11–7307, July 1971 (DOT HS–800–587); and (2) an experimental safety motorcycle research program to study a number of motorcycle subsystems, including fuel system, ''Requirements Analysis and Feasibility Studies for an Experimental Safety Motorcycle,'' by J.A. Bartol, G.D. Livers, and R. Miennert, AMF Incorporated, Advanced Systems Laboratory, Final Report, Contract No. DOT–HS–4–00816, July 1975 (DOT HS–801–654).

Finally, for reducing deaths and injuries to motorcyclists resulting from head impacts, the agency has issued FMVSS No. 218, Motorcycle Helmets. Crash data show that injuries from head impacts are the most serious injuries in motorcycle crashes. The agency believes that head impacts produce the most serious injuries in motorcycle crashes. The agency believes and statistical data confirm that helmet usage is the most effective way to reduce head and perhaps neck injuries caused by motorcycle crashes.

Although, the agency is denying this petition, it is noted that NHTSA has been very actively participating with other countries in the development of a motorcycle crash data base for global application to be used in analyzing motorcycle crashes and injuries. Since May 1997, the agency has been working with other countries on a research project that is being undertaken by the Organization for Economic Co-operation and Development to establish a ''common methodology'' for collection of motorcycle crash data. Currently, there are no established international procedures for collecting such data. The agency is hopeful that this internationally harmonized effort will provide more detailed data for further analysis of motorcycle crash and rider injury studies.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. After considering all relevant factors, the agency has decided to deny the petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 16, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–10050 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA–99–5156]

RIN 2127–AG78

Anthropomorphic Test Dummy; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Extension of comment period.

SUMMARY: This document grants a request to extend the comment period on an agency proposal to adopt new design and performance specifications for a 12-month-old infant dummy. Subsequent to publication of the proposal, the agency received a request for extension of the comment period for 60 days in order to prepare a considered comment to submit in response thereto. NHTSA is extending the comment period from April 22, 1999 to June 22, 1999.

DATES: Extended comment closing date: Comments on the March 8, 1999 proposal, 64 FR 10965, Docket No. 99–5156, must be received by the agency on or before close of business on June 22, 1999.

ADDRESSES: Comments should refer to Docket No. 99–5156 and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Docket room hours are from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Stan Backaitis, Office of Crashworthiness Standards, at 202–366–4912.

For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202–366–2992.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION: On March 8, 1999, NHTSA published a notice of proposed rulemaking to incorporate the Child Restraint Air Bag Interaction (CRABI) 12-month-old dummy into 49 CFR Part 572, and to adopt new design and performance specifications for that dummy. The modified CRABI is especially needed to evaluate the effects of air bag deployment on children who are out of position at the time of a crash. The proposed modifications would provide more useful information to better evaluate child safety in a variety of crash environments. Adopting the modified CRABI dummy would facilitate its use in evaluating the safety of air bags for infants and very young children. The separate issue of specifying the use of the dummy in performance tests, e.g., as part of the occupant protection standard and/or child restraint standard, will be addressed in other rulemakings, most notably the current rulemaking on advanced air bags.

The NPRM specified a comment closing date of April 22, 1999 (45 days after date of publication). However, on April 14, 1999, we received a request for an extension of the comment closing date from the Alliance of Automobile Manufacturers (AAM). The AAM stated that, although it has used the CRABI dummy, it has been unable to adequately access our proposed changes. Upgraded dummies will apparently not be available for evaluation until early May. Accordingly, AAM stated that it will not be able to complete its review and prepare comments prior to the closing date of April 22, 1999. Therefore, AAM requested an additional 60 days for submission of its comments.

Since AAM is the national trade association for vehicle manufacturers representing the majority of new vehicle sales, the agency is interested in its comments. Thus, in order to provide the AAM and other interested parties ample time and opportunity to express their views on the CRABI proposal, NHTSA believes that there is good cause for the extension of the comment period and that such extension is consistent with the public interest. Accordingly, the AAM request to extend the comment period for an additional 60 days is granted.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority is at 49 CR 1.50.

Issued on: April 16, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–10084 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–59–U

Notices

Federal Register

Vol. 64, No. 77

Thursday, April 22, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–026–1]

Availability of an Environmental Assessment and Finding of No Significant Impact for Field Testing Salmonella Dublin Vaccine, Live Culture

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and finding of no significant impact concerning authorization to ship for the purpose of field testing, and then to field test, an unlicensed live *Salmonella dublin* vaccine for use in cattle. A risk analysis, which forms the basis for the environmental assessment, has led us to conclude that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared. We intend to authorize shipment of this vaccine for field testing 14 days after the date of this notice, unless new substantial issues bearing on the effects of this action are brought to our attention. We also intend to issue a veterinary biological product license for this vaccine, provided the field test data support the conclusions of the environmental assessment and finding of no significant impact and the product meets all other requirements for licensure.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to the docket number, date, and complete title of this notice when requesting copies. Copies of the environmental assessment and finding of no significant impact (as well as the risk assessment with confidential business information removed) are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Jeanette Greenberg, Technical Writer-Editor, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, USDA, 4700 River Road Unit 148, Riverdale, MD 20737–1231; telephone (301) 734–5338; fax (301) 734–4314; or e-mail: Jeanette.B.Greenberg@usda.gov.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from the Animal and Plant Health Inspection Service (APHIS), as well as obtain APHIS' authorization to ship the product for field testing.

To determine whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS conducted a risk analysis to assess the potential effects of this product on the safety of animals, public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA). APHIS has concluded that field testing the unlicensed veterinary biological product will not significantly affect the quality of the human environment. Based on this finding of no significant impact (FONSI), we have determined that there is no need to prepare an environmental impact statement.

An EA and FONSI have been prepared by APHIS concerning the field testing of the following unlicensed veterinary biological product:

Requester: Fort Dodge Laboratories, Inc., Division of American Home Products Corporation.

Product: Salmonella Dublin Vaccine, Live Culture.

Field test locations: California, Colorado, Indiana, and Wisconsin.

The above-mentioned vaccine is for use in cattle as an aid in the prevention of clinical disease caused by *Salmonella dublin*. The vaccine bacteria contain the *aro* A deletion, which limits the ability of the bacteria to replicate in vertebrate tissues.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial environmental issues are raised in response to this notice, APHIS intends to authorize shipment of the above product for the initiation of field tests 14 days from the date of this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the EA and FONSI that were generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the original EA and FONSI, APHIS does not intend to issue a separate EA to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following completion of the field test provided no adverse impacts on the human environment are identified and provided the product meets all other requirements for licensure.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 16th day of April 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–10092 Filed 4–21–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Urban Connections

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to establish a new information collection. The collected information will help Forest Service personnel better understand the demands that urban residents make on agency programs and services, how well the agency meets these demands, and if the agency effectively communicates its programs and services to urban residents. Information will be collected from people living in and around Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

DATES: Comments must be received in writing on or before June 21, 1999.

ADDRESSES: All comments should be addressed to LindaLou Stockinger, Public Affairs, Forest Service, USDA, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203 or email to lstockin/r9@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: LindaLou Stockinger, Public Affairs, at (414) 297–3326.

SUPPLEMENTARY INFORMATION:

Background

Urban residents are increasingly looking to the National Forests as a source of recreation and relaxation and to gain some relief from dense urban settings. Many eastern National Forests are situated within a few hours drive from dense urban environments. For example, the Chippewa and Superior National forests are within a few hours drive of Minneapolis/St. Paul, Minnesota. The Huron-Manistee, Hiawatha, and Ottawa National Forests are within driving distance of Detroit, Michigan. The White Mountain National Forest, located in New Hampshire, is within commuting distance of Boston, Massachusetts. Two National Forests, the Wayne in Ohio and the Allegheny in Pennsylvania, are within a few hours drive of Cleveland, Ohio. As a result, National Forest System lands are under increased pressure from urban residents to meet their need for relief from dense urban environments.

Because of the increased demands on these natural resources, the agency is collecting information to identify the concerns that urban residents have regarding the agency's ability to meet these additional demands.

The Forest Service has contracted with a private public affairs firm, Kearns & West, to collect this information. Personnel from Kearns & West will collect information in four phases that will include telephone interviews and focus groups. Forest Service personnel will work with Kearns & West personnel to evaluate and analyze the results.

The results of the study will help Forest Service personnel better understand the demands that urban residents make on the agency's programs and services, how well the agency communicates its programs and services to these residents, how well the agency meets needs and expectations of urban residents, how opportunities might be made available to involve urban residents in discussions about land management issues, and how to interest urban residents in participating in volunteer activities on National Forest System lands.

Data from this information collection is not available from other sources.

Description of Information Collection

Title: Urban Connections—Phase I—Telephone Surveys.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: The purpose of the information collected in Phase I is to gain feedback on the types of questions that will be asked in Phase II. Kearns & West personnel will interview 12 urban residents: 3 in Boston, Massachusetts; 3 in Minneapolis/St. Paul, Minnesota; 3 in Detroit, Michigan; and 3 in Cleveland, Ohio. Each participant will be asked questions that include how important they think the health of forest lands are to future generations; their perceptions of how and why National Forest System lands are managed as they are; their knowledge of Forest Service programs; their thoughts about economically based enterprises on National Forest System lands, such as concessionaires; their view of the Forest Service Natural Resource Agenda that includes improving water quality, recreational experiences, wildlife habitat, and land stewardship; their perceptions of Forest Service customer service; and if they would be willing to volunteer time to help the agency with activities, such as trail maintenance. Respondents also will be asked if there are other questions they think should be included on the survey and if they know of anyone who might be a potential survey participant.

Estimate of Burden: 15 minutes.

Type of Respondents: Residents living in or around the cities of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

Estimated Number of Respondents: 12.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3 hours.

Description of Information Collection

Title: Urban Connections—Phase II—Telephone Survey.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: Data from Phase I is the basis for the questionnaire used in Phase II. Kearns & West will interview 1000 people in each of the following metropolitan areas: Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

Respondents will be asked questions that include how important they think the health of forest lands are to future generations; their perceptions of how and why National Forest System lands are managed as they are; their knowledge of Forest Service programs; their thoughts about economically based enterprises on National Forest System lands, such as concessionaires; their view of the Forest Service Natural Resource Agenda that includes improving water quality, recreational experiences, wildlife habitat, and land stewardship; their perceptions of Forest Service customer service; and if they would be willing to volunteer time to help the agency with activities, such as trail maintenance. Respondents also will be asked if there are other questions they think should be included on the survey and if they know of anyone who might be a potential survey participant.

Respondents also will be asked if they are, or if they know of anyone who might be, willing to participate in a future focus group.

Data from Phase II will help Forest Service personnel understand how urban residents perceive the agency's management of National Forest System lands.

Estimate of Burden: 20 minutes.

Type of Respondents: Residents living in or around the cities of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan, and Cleveland, Ohio.

Estimated Number of Respondents: 4000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1334 hours.

Description of Information Collection

Title: Urban Connections—Phase III—Focus Groups.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: The information collected during Phases I and II of this information collection will form the basis for Phase III. Kearns & West will conduct a total of 8 focus groups: 2 in Boston, Massachusetts; 2 in Minneapolis/St. Paul, Minnesota; 2 in Detroit, Michigan; and 2 in Cleveland, Ohio. The purpose of the focus groups is to discuss responses to questions asked in Phases I and II and help Forest Service personnel understand perceptions urban residents have concerning the agency's management of National Forest System lands.

Estimate of Burden: 2 hours.

Type of Respondents: Residents living in or around the cities of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio who either participated in a telephone interview in Phases I or II or whose name was suggested by one of the telephone interviewees as someone who might be interested in participating in a focus group.

Estimated Number of Respondents: 96.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 192 hours.

Description of Information Collection

Title: Urban Connections—Phase IV—Telephone Surveys.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: The information collected during Phases I, II and III will serve as the basis for Phase IV. Kearns and West personnel will interview 10 people in each of the metropolitan areas of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

These respondents will be selected from those who were interviewed previously during Phase I or II of this information collection process, or will be people who were identified as potential participants by one of the earlier telephone survey respondents.

The purpose of Phase IV is to gain additional information to those questions that were included in Phases I and II. The collected information will help the Forest Service understand what urban residents expect from public lands in order for the agency to meet these expectations.

Estimate of Burden: 30 minutes.

Type of Respondents: Residents living in or around the cities of Boston, Massachusetts; Minneapolis/St. Paul, Minnesota; Detroit, Michigan; and Cleveland, Ohio.

Estimated Number of Respondents: 40.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 20 hours.

Comment Is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comment

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: April 15, 1999.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 99–10081 Filed 4–21–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra Nevada Forest Plan Amendment Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Revision of the Notice of Intent for the Sierra Nevada Forest Plan Amendment Environmental Impact Statement. The Department of Agriculture, Forest Service, Regions 4 and 5 announce the adjustment to the schedule for the development of new management direction in Sierra Nevada national forest, supported by an environmental impact statement. Previous schedules published in the **Federal Register** on July 10, 1998 and November 20, 1998 announced a completion date of July 31, 1999.

SUMMARY: The previous **Federal Register** notice of November 20, 1998 called for publication of the draft environmental impact statement in late February, 1999. The schedule is being adjusted to allow the Forest Service more time to integrate relevant natural resource science findings and to better integrate public concerns into alternatives to be displayed in the draft environmental impact statement. The adjustment in schedule will result in a more meaningful and useful draft environmental impact statement for public review and comment. The adjustment in schedule changes the estimated publication of the draft environmental impact statement to late spring or early summer of 1999. The Sierra Nevada Forest Plan Amendment Environmental Impact Statement (EIS) will amend national forest plans for the Humboldt-Toiyabe, Modoc, Lassen, Plumas, Tahoe, Eldorado, Stanislaus, Sierra, Sequoia, and Inyou National Forests, and the Lake Tahoe Basin Management Unit. The EIS will address five problem areas described in the Notice of Intent published in the November 20, 1998 **Federal Register**: old forest ecosystems; aquatic, riparian, and meadow ecosystems; fire and fuels; noxious weeds; and, lower westside hardwood forest ecosystems.

FOR FURTHER INFORMATION CONTACT: Please see the USDA Forest Service Region 5 World Wide Web site www.r5.fs.fed.us or contact Dr. Kent Connaughton, USDA Forest Service, Sierra Nevada Framework Project, Room 419, 801 ''I'' Street, Sacramento, CA 95814; phone number 916–492–7554; TTY via PacBell relay (800) 735–2929.

SUPPLEMENTARY INFORMATION:

The USDA Forest Service Pacific Southwest Region and the Pacific Southwest Research Station are integrating new science into management of the national forests of California. The effort is called the Sierra Nevada Framework Project. One objective of the Framework Project is to amend forest plans in conformance with the National Forest Management Act

and the National Environmental Policy Act. Other activities of the Framework Project involve improving long-term cooperation and coordination among the Forest Service, tribes, local governments, state and federal agencies.

On November 20, 1998, the Region published a Notice of Intent in the **Federal Register** identifying five problem areas to address in an Environmental Impact Statement: old forest ecosystems; aquatic, riparian and meadow ecosystems; fire and fuels management; noxious weeds; and, lower westside hardwood ecosystems. Prior to drafting the Notice of Intent, the Pacific Southwest Region and Pacific Southwest Research Station reviewed recent science and gathered public comment and related information during a series of 37 community workshops throughout the Sierra and other towns in California and Nevada. Publication of the Notice of Intent initiated a 60-day opportunity for public comment, including 27 additional community workshops. To date, the Forest Service has received 3000 comments via letters, postcards, and e-mail. Response to these comments is integrated into the alternatives being developed to address the five problem areas.

In response to the significant public interest in the development of alternatives, the Forest Service is making available summary descriptions of alternatives that may appear in the draft EIS. The Forest Service is not soliciting public comment on these preliminary drafts, but is making them available so people may be better prepared to comment on the draft EIS when it is published.

At present, several alternatives are being developed by the Forest Service. These alternatives reflect extensive public comment and suggestions, as well as recent scientific information. To view summaries of these draft alternatives, please see the USDA Forest Service Region 5 World Wide Web site www.r5.fs.fed.us or contact USDA Forest Service, Sierra Nevada Framework Project, 801 I Street, Room 419, Sacramento, CA, 95814 to receive a copy by mail.

The Forest Service is convening public meetings to inform interested people about its progress in the development of the environmental impact statement. Meetings will be held in the Sierra Nevada Framework Project Office, 801 I Street, Sacramento, California, 95814 Room 484 as follows:

Tuesday, May 11, 1999, 1–3 pm
Wednesday, June 2, 1999, 1–3 pm
Wednesday, July 7, 1999, 1–3 pm
Wednesday, August 4, 1999, 1–3 pm

Dated: April 9, 1999.

Kent P. Connaughton,

Deputy Regional Forester.

[FR Doc. 99–10062 Filed 4–21–99; 8:45 am]

BILLING CODE 3410–11–M

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: April 27, 1999; 9:30 A.M.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., S.W., Washington, D.C. 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or John Lindburg at (202) 401–3736.

Dated: April 19, 1999.

John A. Lindburg,

Legal Counsel.

[FR Doc. 99–10159 Filed 4–19–99; 4:50 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Application to Amend Certificate.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6 (a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 88–5A013.''

CISA Export Trade Group, Inc.'s original Certificate was issued on October 13, 1988 (53 FR 43253, October 26, 1988), and previously amended on

March 2, 1990 (55 FR 23123, June 6, 1990), December 16, 1991 (57 FR 883, January 9, 1992) and on October 9, 1997 (62 FR 54832, October 22, 1997). A summary of the application for an amendment follows.

Summary of the Application

APPLICANT: Casting Industry Suppliers of America International, formerly known as CISA Export Trade Group.

223 West Jackson Blvd., Suite 800, Chicago, IL 60606.

CONTACT: John M. Peterson, Esquire, Telephone: (312) 263–3001.

APPLICATION NO.: 88–5A013.

DATE DEEMED SUBMITTED: April 13, 1999.

PROPOSED AMENDMENT: The CISA Export Trade Group, Inc., seeks to amend its Certificate to 1. Change the listing of the Certificate holder cited in this paragraph to the new listing cited in this paragraph in parenthesis as follows: CISA Export Trade Group, Inc. (Casting Industry Suppliers of America International); and

2. Change the listing of the ''Member'' cited in this paragraph to the new listing cited in this paragraph in parenthesis as follows: Didion Manufacturing Company (Didion International, Inc.); and

3. Delete the following companies as ''Members'' of the Certificate within the meaning of section § 325.2(1) of the Regulations (15 CFR 325.2 (1)): Georg Fischer Disa, Inc., Holly, MI; Hickman, Williams & Company, Livonia, MI; and

4. Add the following companies as new ''Members'' of the Certificate within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2 (1)): ABB Industrial System Inc, Columbus, Ohio, for the activities of its division ABB Metallurgy, New Brunswick, NJ; CSI Industrial Systems Corporation, Grayling, MI; Fairmount Minerals, Ltd., Chardon, OH; and Hamilton Technical Ceramics, Paris, ON Canada.

Dated: April 16, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–10069 Filed 4–21–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Reports and Guidance Documents; Availability etc.; European Union's Directive on Data Protection; Compliance Guidance for U.S. Organizations

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of publication.

SUMMARY: The Department of Commerce has been working very closely over the last several months with the European Commission to develop clear and predictable guidance to U.S. organizations that would enable them to comply with the European Union's Directive on Data Protection. The Directive, which went into effect late last year, allows the transfer of personally identifiable data to third countries only if they provide an ''adequate'' level of privacy protection. Because the United States relies largely on a sectoral and self-regulatory, rather than legislative, approach to effective privacy protection, many U.S. organizations have been uncertain about the impact of the ''adequacy'' standard on personal data transfers from European Community countries to the United States.

Last Fall, the DOC proposed a safe harbor for U.S. companies that choose to adhere to certain privacy principles. As the DOC explained then, the principles are designed to serve as guidance to U.S. organizations seeking to comply with the European Union Directive. Organizations within the safe harbor would have a presumption of adequacy and data transfers from the European Community to them would continue. Organizations could come into the safe harbor by self certifying that they adhere to these privacy principles. The decision to enter the safe harbor is entirely voluntary. As a result of the safe harbor proposal, the European Union announced last Fall its intention to avoid disrupting data flows to the US so long as the US is engaged in good faith negotiations with the European Commission.

Last November, the DOC issued draft principles for review and comment by interested organizations, noting that the content of the principles was of course crucial to the proposal. The DOC received numerous written comments in response to that draft and countless additional comments and suggestions in the subsequent months through extensive discussions with interested parties. Generally, the comments the DOC received supported the safe harbor concept. They also raised concerns with certain aspects of the principles, particularly access and onward transfer.

Because the principles are quite broad and general, questions were also raised about how they would be applied in specific circumstances. DOC consultations also made clear that US organizations would welcome additional information on the benefits of being in the safe harbor and the procedures that would be followed when they were in the safe harbor. The comments the DOC received have been extremely valuable both in helping the DOC understand how data is protected in practice and in working with the European Commission to find appropriate solutions to issues raised in DOC/EC discussions.

Concurrently with DOC discussions with US organizations, the DOC has had extensive discussions with the European Commission about the content and contours of the safe harbor as well as on the comments raised by US organizations. On the basis of our discussions with US negotiators and the EU Commission, the DOC has further refined the safe harbor principles to account for the many views expressed and those of our European counterparts.

New Documents for Review and Comment

At this point, the two sides have achieved a substantial level of consensus on the content of the principles, on the content of more specific guidance (FAQs), and safe harbor procedures and benefits. Accordingly, the DOC is now issuing for comment by US organizations the first tranche of documents that will comprise the relevant safe harbor documents. These include: (1) revised safe harbor principles; (2) frequently asked questions and answers (FAQs) on access; and (3) a draft European Commission document on the procedures that will be established for the handling of complaints where the Commission had made an adequacy determination, as it will with the safe harbor. (These documents are also available on our web site at http://www.ita.doc.gov/ecom.) In addition to your comments on these documents, the DOC also requests your views on the weight to give the FAQs relative to the principles.

The DOC will also be issuing within the week additional FAQs addressing certain sectoral concerns, procedural issues, and several clarifications requested during DOC consultations. The European Commission is also providing these documents to the Member States for their comments and review. Additional documents will be put on the ITA website as soon as they are available for review.

All the draft documents are still under negotiation with the European Commission. Points of difference between the two sides have been identified in footnotes in the text and mark those parts of the document that are most likely to be revised further. Please note that these principles and the

accompanying explanatory materials were developed solely for use by US organizations receiving personal data from the EU under the safe harbor. Consequently, they rely on references to European Union law, as for example in defining sensitive information and some of the relevant exceptions, which limit their general applicability. For that reason, adoption of the principles for other purposes may well be inappropriate.

Safe Harbor Benefits

The Dept. of Commerce would like to highlight the several benefits of the Safe Harbor approach. They include:

- All 15 Member States (MS) will bound by US/EC understanding;
- The understanding will create the presumption that companies within the safe harbor provide adequate data protection (rather than the opposite) and data flows to those companies will continue;
- MS requirements for prior approval of data transfers either will be waived or approval will be automatically granted; and
- US companies will have a transition period to implement safe harbor policies.
- Claims against US organizations will for the most part be limited to claims of non-compliance with the principles, European consumers will be expected to exhaust their recourse with the US organization first, and due process will be assured for US organizations that are subject to complaints; and
- Generally, only the European Commission, acting with a committee of Member State representatives (the Article 31 Committee), will be able to interrupt personal data flows from an EU country to a US organization.

In addition to the documents made available today and next week, the final package of safe harbor documents will include the European Commission's Article 25.6 decision, letters from the Department of Commerce to the European Commission and a reply letter from the Commission to the Department of Commerce, and memoranda describing enforcement authority in the US for unfair and deceptive practices and European Union Member State enforcement procedures involving data protection claims. Please remember to check the website http://www.ita.doc.gov/ecom for postings of additional documents.

Document Availability: April 19, 1999 at URL; *http://www.ita.doc.gov/ecom*. If you would like to speak to someone or want hard copies of the documents please call Brenda Carter-Nixon on (202) 482–5227.

Address Comments: Please submit comments on any of the draft documents to the Department of Commerce by May 10, 1999. DOC requests that all comments be submitted electronically in an HTML format to the following email address: *Ecommerce@ita.doc.gov*. If organizations do not have the technical ability to provide comments in an HTML format, they can forward them in the body of the email, or in a Word or WordPerfect format. The DOC intends to post all comments on the ITA/ECOM website.

If necessary, hard copies of comments can be mailed to the Electronic Commerce Task Force, U.S. Department of Commerce, Room 2009, 14th and Constitution Ave., NW, Washington DC 20230, or faxed to 202–501–2548.

Dated: April 19, 1999.

Eric Fredell,

International Trade Specialist, International Trade Administration/Trade Development.

[FR Doc. 99–10145 Filed 4–20–99; 2:35 pm]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041499C]

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Council will hold a public joint meeting of its Crustacean Advisory Panel (CAP) and Crustaceans Plan Team (CPT) in Honolulu, HI.

DATES: The meeting will be held on May 10–11, 1999, from 8:30 a.m. to 5:00 p.m. each day.

ADDRESSES: The meeting will be held at the Council office conference room, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: (808–522–8220).

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The CAP and CPT will discuss and may make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

8:30 a.m., Monday, May 10, 1999

1. 1998 Draft Annual Report
   A. Northwestern Hawaiian Islands (NWHI) lobster fishery
   B. Other areas (American Samoa, Guam, main Hawaiian Islands, Northern Mariana Islands)
2. Bank-specific harvest guideline framework measure
3. NWHI 1999 harvest guidelines
   A. Exploitable population sizes
   B. Harvest guidelines and data collectors
4. NMFS research on NWHI lobster stocks
   A. Tagging experiments
   B. Spiny and slipper lobster time-series data and stock status at Necker & Maro
5. Marine Mammal Commission's concern regarding monk seals and lobster fishing
6. State ''License for Imported Marine Life''
   A. Review of bill
7. Addition of new areas to Crustaceans Permit Area 3 (Exclusive Economic Zone of American Samoa and Guam)
   A. U.S. atolls
   B. Other
8. Status of amendment addressing Sustainable Fishery Act provisions
   A. Bycatch
   B. Overfishing
   C. Fishing communities
9. Review of Council's draft Program Planning document
10. Review of draft Comprehensive Data Amendment
11. Other business

8:30 a.m., Tuesday, May 11, 1999

12. Review of the issues, discussion and recommendations (CPT and CAP meeting separately)
13. Summary of recommendations (CPT and CAP meeting jointly)

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues will not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: April 15, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–10117 Filed 4–21–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, May 3, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10260 Filed 4–20–99; 2:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, May 7, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10261 Filed 4–20–99; 2:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, May 10, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudicoatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10262 Filed 4–20–99; 2:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, May 14, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10263 Filed 4–20–99; 2:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, May 17, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10264 Filed 4–20–99; 2:38 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, May 21, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10265 Filed 4–20–99; 2:38 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, May 24, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10266 Filed 4–20–99; 2:38 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, May 29, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–10267 Filed 4–20–99; 2:38 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Proposed Information Collection; Commander, Naval Sea Systems Command

AGENCY: Department of the Navy, DOD.

ACTION: Notice of proposed information collection.

SUMMARY: The Naval Sea Systems Command announces a proposed

extension of a previously approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 21, 1999.

ADDRESSES: Send written comments and recommendations on the proposed information collection to Commander, Naval Sea Systems Command (SEA 04X13), 2531 Jefferson Davis Highway, Arlington, VA 22242–5160.

FOR FURTHER INFORMATION CONTACT: To request additional information or to obtain a copy of the proposal and associated collection instruments, contact Sherrell Smith or Leonard Thompson at (703) 602–4170 (Ext. 139 or 137) respectively.

SUPPLEMENTARY INFORMATION:

Form Title and OMB Number: Facilities Available for the Construction or Repair of Ships; OMB Control Number 0703–0006.

Needs and Uses: This collection of information provides NAVSEASYSCOM and the Maritime Administration with a list of facilities available for construction or repair of ships, and information utilized in a data base for assessing the production capacity of the individual shipyards. Respondents are businesses involved in shipbuilding and/or repair.

Affected Public: Businesses or other for profit institutions.

Annual Burden Hours: 679.5.

Number of Respondents: 151.

Responses per Respondent: 1.

Average Burden per Response: 4.5 hours.

Frequency: Annually and as requested.

Authority: 44 U.S.C. Sec. 3506(c)(2)(A)

Dated: April 13, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–10107 Filed 4–21–99; 8:45 am]

BILLING CODE 3810–FF–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearings

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, April 28, 1999. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:00 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference among the Commissioners and staff will be held at 9:30 a.m. at the same location and will include discussions of proposals for a flow needs study and a Commission-Corps of Engineers drought storage agreement; and status reports on the Flowing Toward the Future workshops and activities of the Toxics Advisory Committee.

In addition to the subjects summarized below which are scheduled for public hearing at the business meeting, the Commission will also address the following: Minutes of the March 9, 1999 business meeting; announcements; report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; status of compliance of Somerton Springs Golf Development; resolutions to contract for fish tissue analyses, continued development of the water quality model for the Delaware Estuary and participation in EPA's Energy Star building program; consideration of a resolution to authorize funding of selected tasks of the flow needs study for the Delaware Estuary; and public dialogue.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *New York State Department of Environmental Conservation (NYSDEC) D–77–20 CP (Revision No. 4).* A project to modify the revised schedule of experimental augmented conservation releases for Pepacton and Cannonsville Reservoirs (each located in Delaware County, New York) and Neversink Reservoir (located in Sullivan County, New York). The NYSDEC requests the following modifications for a two-year period: (1) Storage of 50 percent of the annual excess release quantity to create a fisheries protection bank that would be available to augment releases during drought warnings; (2) a revision to the drought operating curves to temporarily replace the Drought Warning One and Drought Warning Two designations with Drought Watch and Drought Warning, respectively; and (3) raise the Drought Warning (formerly Drought Warning Two) threshold by four billion gallons. The existing experimental release program (D–77–20 CP Revision No. 3) will be extended until April 30, 2001 to coincide with Revision 4.

2. *SPI Polyols, Inc. D–88–74 RENEWAL.* An application for the renewal of a ground water and surface water withdrawal project to supply up to 60.04 million gallons (mg)/30 days of ground water and 470.58 mg/30 days of surface water to the applicant's industrial facility from Well Nos. 8 through 12 and Delaware River intake. Commission approval on January 25, 1989 was extended to 10 years. The applicant requests that the total withdrawal from all wells remain limited to 60.04 mg/30 days and 470.58 mg/30 days from the river intake. The project is located in New Castle County, Delaware.

3. *Northampton Generating Company, L.P. D–98–40.* A project to increase the withdrawal of water from 67.5 mg/30 days to 75 mg/30 days from the Lehigh River to continue to serve the applicant's existing 96 megawatt cogeneration facility located on Route 329 in Allen Township and Northampton Borough, both in Northampton County, Pennsylvania. The applicant also proposes to modify the passby flow condition relative to Lehigh River low-flow periods.

4. *Township of East Rockhill D–99–6 CP.* A project to construct a new 0.113 mgd sewage treatment plant (STP) in East Rockhill Township, Bucks County, Pennsylvania. The proposed extended aeration secondary treatment STP will serve East Rockhill Township only and will discharge treated effluent to East Branch Perkiomen Creek approximately 500 feet upstream of Perkasie Borough, Bucks County, Pennsylvania.

5. *Parkway Gravel, Inc. D–99–8.* An application for approval of a surface water withdrawal project to supply up to 97.2 mg/30 days of water to the applicant's sand and gravel washing facility from a proposed water supply pond, and to limit the withdrawal from all sources to 97.2 mg/30 days. The project is located in New Castle County, Delaware.

6. *Upper Dublin Township D–99–9 CP.* A project to upgrade and expand the applicant's existing 1.1 mgd capacity secondary treatment plant to provide an additional 0.25 mgd capacity. The plant will continue to serve a portion of Upper Dublin Township and discharge to Pine Run, a tributary of Wissahickon

Creek in Montgomery County, Pennsylvania.

7. *Lehigh County Authority D–99–11 CP.* A project to upgrade and expand the applicant's existing 35,000 gallons per day (gpd) sewage treatment facility by providing a new advanced secondary biological treatment system capable of providing 60,000 gpd of treatment. The project is located just south of Heidelberg Heights Road in Heidelberg Township, Lehigh County, Pennsylvania. Treated effluent will continue to discharge to an unnamed tributary of Mill Creek, which is a tributary of Jordan Creek.

8. *Warrington Township and The Cutler Group D–99–12 CP.* An application to rerate the applicant's existing 0.26 mgd Tradesville STP to 0.33 mgd to serve existing and proposed residential development in the northwestern portion of Warrington Township, Bucks County, Pennsylvania. The applicant proposes an additional ultraviolet disinfection system and changes to the sequencing batch reactor process to allow the STP to operate more efficiently. The STP is located along the west side of Mill Creek Road in Warrington Township and will continue to discharge to Mill Creek, a tributary of Neshaminy Creek.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who would like to attend a hearing should contact the Secretary at (609) 883–9500 ext. 203 or through the New Jersey Relay Service at 1 (800) 852–7899 (TTY) to discuss how the DRBC may accommodate your needs.

Other Scheduled Hearings

By earlier notice, the Commission announced its schedule of public hearings on a determination that the assimilative capacity of the tidal Delaware River is being exceeded for certain toxic pollutants. This determination will authorize the Executive Director to establish wasteload allocations for specific point source discharge of these pollutants.

The public hearings are scheduled as follows:

May 3, 1999 beginning at 1:30 p.m. and continuing until 5 p.m., as long as there are people present wishing to testify. The hearing will be held in the Second Floor Auditorium of the Carvel State Building, 820 North French Street, Wilmington, Delaware.

May 5, 1999 beginning at 1:30 p.m. and continuing until 5 p.m. as long as there are people present wishing to testify, and resuming at 6:30 p.m. and continuing until 9 p.m., as long as there are people present wishing to testify. The hearing will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

May 11, 1999 beginning at 1:30 p.m. and continuing until 5 p.m., as long as there are people present wishing to testify. The hearing will be held in the Jefferson Room of the Holiday Inn at 400 Arch Street, Philadelphia, Pennsylvania.

Copies of supporting documents may be obtained by contacting Christopher Roberts, Public Information Officer at (609) 883–9500, ext. 205.

Persons wishing to testify are requested to notify the Secretary in advance. Written comments on the proposed determination should also be submitted to the Secretary at the Delaware River Basin Commission, PO Box 7360, West Trenton, New Jersey 08628–0360.

Dated: April 13, 1999.

Susan M. Weisman,

Secretary.

[FR Doc. 99–10109 Filed 4–21–99; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Financial and Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 23, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 21, 1999.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address Pat__Sherrill@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A)) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Financial and Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified

above. Copies of the requests are available from Patrick J. Sherrill at the address specified above. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 16, 1999.

William Burrow,

Acting Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Guidance to SEAs on Procedures for Adjusting ED-Determined Title I Allocations to Local Educational Agencies (LEAs).

Abstract: Guidance for State educational agencies (SEAs) on procedures for adjusting ED-determined Title I Basic and Concentration Grants allocations to local educational agencies (LEAs) to account for newly created LEAs and LEA boundary changes.

Additional Information: Failure to issue this guidance document would mean that SEAs have no guidance from ED on procedures to follow in determining final allocations for the more than 800 LEAs not on the Census list that are eligible for Title I. SEAs must make final allocations for all LEAs and notify school districts of the Title I amounts they will receive for school year 1999–2000 in April and May.

Frequency: Guidance issued on as needed basis.

Affected Public: State, local or Tribal Government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 2,080.

[FR Doc. 99–10013 Filed 4–21–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Achievement Levels of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: April 30, and May 1, 1999.

TIME: April 30—6–9 p.m., (open); May 1—8 a.m.–3 p.m., (closed).

LOCATION: St. Paul Hotel, 350 Market Street, St. Paul MN.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under Pub. L. 105–78, the National Assessment Governing Board is also granted exclusive authority over developing Voluntary National Tests pursuant to contract number RJ97153001.

On April 30 from 6 to 9 p.m., the Achievement Levels Committee of the National Assessment Governing Board will meet in open session to review the response of the Technical Advisory Committee to the National Academy of Sciences' evaluation of NAEP. Also, the Committee will discuss the NAGB plan and report to Congress.

On May 1, the Achievement Level Committee will meet in closed session from 8 a.m. to 3:00 p.m. The Committee will review the civics item classification study and the analysis on supplementary cut scores in preparation for the formulation and reporting of recommendations to the Governing Board at its May meeting. This meeting must be closed because references will be made to specific items from the assessment and premature disclosure of the information presented for review would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

A summary of the activities of this closed meeting and other related matters, which are informative to the public and consistent with the policy of the 5 U.S.C. 552b, will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, D.C., from 8:30 a.m. to 5 p.m.

Dated: April 19, 1999.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 99–10064 Filed 4–21–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Idaho Operations Office; Notice of Availability of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of Availability of Solicitation DE–PS07–99ID13788–Industrial Combustion.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is seeking applications for innovative cost-shared research, development and demonstration of technologies which will enhance economic competitiveness, reduce energy consumption and reduce environmental impacts of crosscutting integrated industrial combustion process system applications. The research is to address the characteristics, strategic targets and challenges identified in the Industrial Combustion Vision and research priorities identified by the combustion community in the Industrial Combustion Technology Roadmap.

DATES: The deadline for receipt of full applications is August 2, 1999, at 3:00 p.m. MST.

ADDRESSES: Applications should be submitted to: Marshall Garr, Contract Specialist Procurements Services Division, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS1221, Idaho Falls, Idaho 83401–1563.

FOR FURTHER INFORMATION CONTACT: Marshall Garr, Contract Specialist at *garrmc@id.doe.gov,* or Linda Hallum, Contracting Officer at hallumia@id.doe.gov.

SUPPLEMENTARY INFORMATION: Approximately $2,700,000 in federal funds are expected to be available to fund the first year of selected research efforts. DOE anticipates making 2 or more cooperative agreement awards each with a duration of five years or less. A minimum 50% non-federal cost-share is required for the *total* project which includes research, development and demonstration. The minimum research and development cost share is 30%. Collaborations between industry, industry organizations, university, and National Laboratory participants are encouraged. The issuance date of the solicitation is on or about May 3, 1999. The solicitation will be available in its full text via the internet at the following address: *http://www.id.doe.gov/doeid/PSD/proc-div.html.* The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (P.L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086.

Issued in Idaho Falls on *April 19, 1999.*

Wendy Huggins,

Contract Specialist, Procurement Services Division.

[FR Doc. 99–10072 Filed 4–21–99; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

American Statistical Association Committee on Energy Statistics

AGENCY: Department of Energy.

ACTION: Supplemental notice of open meeting.

On April 6, 1999, the Department of Energy published a notice announcing an open meeting of the American Statistical Association Committee on Energy Statistics 64 FR 16727. This notice provides additional detail on the tentative agenda published. The meeting will open in room 8E–089, followed by concurrent morning sessions on Thursday, April 29, 1999 and Friday, April 30, 1999. Please refer to the poster in Room 8E–089 for the concurrent session room numbers.

Issued in Washington, D.C. on April 15, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–10205 Filed 4–21–99; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

National Stakeholder Forum on Central Internet Database

AGENCY: Office of Environmental Management, DOE.

ACTION: Notice of a National Stakeholder Forum.

SUMMARY: DOE is sponsoring a forum on the development of a Central Internet Database (''CID'' or ''database'') that will contain specified information on DOE managed waste, contaminated environmental media, and facilities. DOE is developing this database and sponsoring this forum pursuant to the terms of a settlement agreement between DOE, the Natural Resources Defense Council, Inc., and several other organizations. The purposes of this forum are: (1) To inform and discuss with stakeholders the current status of the development of the database and review the data that will be contained in the database; (2) to engage in a dialogue with stakeholders about the continued development of, and possible enhancements to, the outline and structure of the database; (3) to discuss Internet linkages to other data sources; and (4) to discuss opportunities for on-going stakeholder involvement in the development and implementation of the database. The forum is open to the public. However, pre-registration is strongly recommended to assist DOE in logistical planning for the forum. Detailed registration information is provided below.

DATES: June 3–4, 1999.

ADDRESSES: Columbia Inn Hotel and Conference Center, 10207 Wincopia Circle, Columbia, MD 21044.

FOR FURTHER INFORMATION CONTACT: James D. Werner, 202–586–9280.

SUPPLEMENTARY INFORMATION:

1. Background

On December 12, 1998, DOE and the Natural Resources Defense Council, Inc. (NRDC), on its own behalf and that of 38 other plaintiff organizations, settled a lawsuit (*Natural Resources Defense Council, et al.* v. *Richardson, et al.*, Civ No. 97–936 (SS)). The terms of the settlement agreement require DOE to complete three major items: (1) Develop and implement a Central Internet Database (CID) containing specified information on DOE waste, facilities, and contaminated media, as well as information on waste transfers; (2) conduct a study of DOE's long-term stewardship activities; and (3) establish a $6.25 million fund, to be administered by an independent organization (RESOLVE, Inc.), enabling recipient organizations to conduct technical and scientific reviews of DOE's environmental management activities. In connection with the development of this database, DOE agreed to hold at least two national stakeholders forums to discuss with members of the public issues relating to the development of the database. The first of these forums is the subject of this notice.

Additional information on the settlement agreement is available through an Internet web site (see URL given below) or by contacting the DOE point of contact, James D. Werner, at the address listed below.

2. Central Internet Database Requirements

From 1980 to 1996, the Department compiled, on a national basis, information about its waste, contaminated media, and spent nuclear fuel in a system, called the ''Integrated Database'' or ''IDB.'' The new database (the CID) will, in part, supplant the IDB and will include more information and make it more readily accessible than the IDB. The CID will contain specified information on the wastes, contaminated media, facilities, spent nuclear fuel, and materials in inventory managed by DOE's Offices of Environmental Management, Defense Programs, Science, and Nuclear Energy. The database will also include data from the Formerly Utilized Sites Remedial Action Program (FUSRAP) sites, if they have been returned to DOE for management, as well as sites governed by Section 151(b) of the Nuclear Waste Policy Act that have been transferred to DOE ownership. (To date, no sites have been transferred to DOE under section 151(b). FUSRAP sites that have not already been cleaned up, are currently managed by the Army Corps of Engineers).

Under the terms of the settlement, DOE will include in the CID, data that are presently available and collected by DOE on a national level, or that are presently planned to be collected in the future by DOE on a national level. For example, specific information will be provided on waste types and volumes of material and waste in storage, as well as newly generated, treated, and disposed waste; the mass of spent nuclear fuel in storage and the annual receipts of spent nuclear fuel; the major chemical constituents and radionuclides of concern; the program responsible for generation and disposition; and the location, managing program, approximate square footage, status, and type of contamination for DOE facilities. The database will not include any information that is classified,

controlled, or proprietary. DOE also committed to make the database available to the public on the Internet through a web-based reporting tool (e.g., web site) that provides the capacity to generate standard reports and perform searches and queries.

As explained above, this notice announces the first national stakeholder forum to discuss the development of the CID. DOE will sponsor at least one additional stakeholder forum; the second forum will be held no sooner than one year after the date on which DOE announces that the database is operational. The subject of the second forum will be the operation of the database, including its structure and linkages to other databases. DOE is required to maintain the database for a minimum of five years following the second national stakeholder forum. Before the expiration of this five-year period, upon request, DOE will hold a third national stakeholder forum to discuss whether the Department should continue operation of the database.

3. Draft Forum Agenda

The following is a draft agenda for the forum. Members of the public are invited to review the draft agenda and provide comments on it in the manner described below.

June 3

8:30—Welcome and Introductions
9:30—Overview and Status Reports on the Database by DOE and Stakeholders
11:00—Public Comments and General Discussion
12:00—Lunch
1:00—Sessions on Specific Topics—Topics may include the following:
- Data sources, level of detail, and availability
- User Interface—Look and feel of interface
- Database search and query capabilities
- Database deployment, training, and documentation
- Updating and maintaining the database
- Opportunities for ongoing stakeholder involvement with database development and deployment

5:45—Adjourn

June 4

8:30—Agenda Review and Announcements
9:00—Reports from Previous Day Sessions
10:30—Discussion Regarding Sessions
12:00—Lunch
1:00—Discussion of Outstanding Issues
1:45—Next Steps—Upcoming Activities and Action Items
2:15—Closing Comments
2:30—Adjourn

Comments on the draft agenda should be sent to James D. Werner at the following address: Office of Strategic Planning and Analysis (EM–24), U.S. Department of Energy, 1000 Independence Ave, SW, Washington, DC 20585.

The Department will consider comments received on the draft agenda in reaching its determination on the final agenda. The final agenda will be made available through the Internet Web Site referenced below.

4. Ongoing Communication Mechanisms

In order to communicate current information about activities related to the settlement to stakeholders and the public, DOE has established an Internet Web Site at *http://www.em.doe.gov/settlement.* This site includes:

- Text of Settlement Agreement
- Stakeholder Forum Information
- Forum Agenda
- Registration Information
- Background Materials (available 5/22/99)
- Project Plan—provides an overview of the proposed design of the database and the tentative implementation schedule
- Fact Sheets and Updates on Settlement-Related Activities
- Overall Status of Settlement Implementation

5. Registration Information

Registration information can be obtained from the Internet Web Site referenced above, or by calling the Center for Environmental Management Information at 1–800–736–3282 (in the Washington, DC area, 202–863–5084). In addition, any member of the public desiring further information concerning the database and forum can contact James D. Werner at the address provided above. The deadline for registration is May 19, 1999.

Pursuant to the settlement agreement, DOE will consider providing funding for reasonable travel expenses (not to exceed $50,000 per forum) associated with attendance at the forum by members of the plaintiff organizations or other organizations that can demonstrate need and are working on issues related to DOE's environmental management activities. The Environmental Law Institute (ELI) will process and evaluate these applications and determine eligibility. Applications are due no later than May 14, 1999. For further information about how to apply for funding of travel expenses, please contact ELI as outlined below:

Eric Feldman, Environmental Law Institute, 1616 P Street, NW, Suite 200, Washington, DC 20036, Phone: 202–939–3823, Fax: 202–939–3868, Email: *feldman@eli.org*

Information on how to apply for travel expense funding can also be obtained from the Internet Web Site referenced above or by calling the Center for Environmental Management Information at 1–800–736–3282 (in the Washington, DC area, 202–863–5084).

Issued in Washington, DC, on April 16, 1999.

James D. Werner,

Director, Office of Strategic Planning and Analysis, Office of Environmental Management.

[FR Doc. 99–10073 Filed 4–21–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Coal Council Notice of Open Meeting

SUMMARY: This notice announces a meeting of the National Coal Council. That Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires notice of these meetings be announced in the **Federal Register.**

DATES: Tuesday, May 18, 1999, 9:00 a.m. to 12 Noon.

ADDRESSES: Embassy Suites, 1900 Diagonal Road, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTARY INFORMATION: Purpose of the Council: To provide advice, information, recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda

- Approval of agenda, E. Linn Draper, Jr., Chairman of the National Coal Council.
- Opening remarks, E. Linn Draper, Jr., Chairman of the National Coal Council.
- Remarks of Secretary of Energy, Bill Richardson (invited).
- Administrative business.
- Presentation by Steve Miller, Center for Energy and Environmental Development, Coal: Improving Public Perception of the Nation's Largest Domestic Energy Resource.
- Presentation by Ben Yamagata, Van Ness, Feldman, Fuel Diversity Economic

Incentives—Using one to Achieve the Other.

- Other business.
- Adjournment.

Public Participation: The meeting is open to the public. The Chairperson of the Council will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Council, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Margie D. Biggerstaff at the address or telephone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10-minute rule.

Transcripts: The transcript will be available for pubic review and copying, within 30 days, at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on April 15, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–10206 Filed 4–21–99; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. SA99–17–000, SA99–18–000, SA99–19–000, SA99–20–000. SA99–21–000 (Not Consolidated)]

Chevron U.S.A. Inc.; Notice of Petitions for Dispute Resolution or, Alternative, for Adjustment

April 16, 1999.

Take notice that Chevron U.S.A. Inc. (Chevron) filed the above-referenced petitions, requesting the Commission to resolve disputes concerning this Kansas ad valorem tax refund obligation to the pipelines listed below.

Pipeline	Docket No.	Refund claim
ANR Pipeline Company	[1] SA99–17–000	$23,260.20
Northern Natural Gas Company	[2] SA99–18–000	494,814.97
Panhandle Eastern Pipe Line Company	[3] SA99–19–000	7,403.85
Colorado Interstate Gas Company	[4] SA99–20–000	418,116.56
Williams Gas Pipelines Central, Inc	[5] SA99–21–000	840,470.72

[1] Changed from GP99–2–000, filed March 9, 1999.
[2] Changed from GP99–3–000, filed March 11, 1999.
[3] Changed from GP99–4–000, filed March 9, 1999.
[4] Changed from GP99–5–000, filed March 10, 1999.
[5] Changed from GP99–6–000, filed March 10, 1999.

Chevon requests that the Commission resolve its dispute with the pipelines by holding that settlements and/or release agreements resolved all issues, including those associated with Kansas ad valorem tax refund liabilities, between the parties. Chevron contends that by agreeing in the settlement to forego claims it for nonperformance it otherwise could have continued to pursue, Chevron agreed to accept total payments under the contracts that did not exceed the MLP ceilings multiplied by the total volumes represented by each pipeline's nonperformance. In such circumstances, no refund should be required. To order otherwise would prevent Chevron from receiving the very benefits it bargained for in the settlements-settlements that the Commission itself strongly encouraged as a means to resolve the massive take-or-pay and underpayments liabilities of interstate pipelines and make the transition to a more market-responsive and competitive environment.

Chevron maintains that the pipelines and consumers benefitted from agreements and settlements because the settlements allowed the pipelines to avoid the much higher costs that full-performance of the contract would have entailed. By resolving ''all claims'' relating to, *inter alia*, ''contractual price'', the settlements resolved the Kansas ad valorem tax reimbursement issue. The Commission has found that these settlements served the public interest.

Chevron also requests the Commission to establish procedures to verify the refund calculations in all dockets to ensure fairness and equity. Alternatively, Chevron requests that the Commission waive Chevron's refund liability pursuant to Section 501(c) of the NGPA. Chevron asserts that the Commission has equitable discretion to grant adjustment relief from this refund requirement. Since the tax reimbursement payments made by the pipelines were for taxes that Chevron in fact paid the State of Kansas, Chevron maintains it did not retain any revenues in excess of the MLPs. Chevron maintains that the equities in the case require the Commission to waive Chevron's refund obligation. At a minimum, Chevron continues the Commission should waive the royalty portion of the refund. Chevron notes that it sold its Kansas properties since 1988, and thus no longer has ongoing contractual relationships with its former Kansas royalty owners. The response from Chevron's former royalty owners to Chevron's mailing has been negligible. To engage in extensive searches or to pursue legal action against these interests would be a cost-prohibitive exercise in futility. Since Chevron has transferred or otherwise ended the leases in question here, and thus has no ongoing relationship with the royalty owners, let alone relationships that would permit Chevron to impose a unilateral reduction in future royalty payments as contemplated in Wylee. Chevron asserts that the royalty portion of the refund claim is uncollectible, as a practical matter, due to the passage of time and the Kansas statute of limitations. Chevron's petitions are on file with the Commission, and they are open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties

to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10035 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–313–000]

Kern River Gas Transmission Company; Notice of Request Under Blanket Authorization

April 16, 1999.

Take notice that on April 14, 1999, Kern River Gas Transmission Company (Kern River), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP99–313–000, an application pursuant to section 7 of the Natural Gas Act (NGA), requesting approval to upgrade its Blue Diamond Meter Station in Clark County, Nevada, by constructing and operating additional facilities, all as more fully set forth in the request that is filed with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/htm (call 202–208–2222 for assistance).

Kern River proposes to upgrade the Blue Diamond Meter Station by adding a third 12-inch turbine meter and appurtenances. It is stated that the maximum design capacity of the meter station for delivery to the local distribution system of Southwest Gas Corporation (Southwest) will increase from 338,000 Mcf per day to approximately 507,000 Mcf per day. Kern River states that the total cost of the proposed upgrade at the Blue Diamond Meter Station is estimated to be approximately $102,000. It is asserted that the total actual cost of the upgrade plus the associated income tax gross-up will be reimbursed by Southwest.

Any person or the Commission Staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 285.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10102 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–303–000]

K N Interstate Gas Transmission Co.; Notice of Request Under Blanket Authorization

April 16, 1999.

Take notice that on April 13, 1999, K N Interstate Gas Transmission Co. (KNI), P.O. Box 281304, Lakewood, Colorado 80228–8304, filed in Docket No. CP99–303–000 a request pursuant to Sections 157.205 and 157.212(a) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212(a)) for authorization to construct and operate two new delivery points in Kearny County, Kansas to provide firm transportation and delivery of natural gas to Midwest Energy, Inc. (Midwest) under KNI's blanket certificate issued in Docket Nos. CP83–140–000 and CP83–140–001, all as more fully set forth in the request which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http:///www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

According to KNI, it provides firm transportation service for Midwest pursuant to the terms and conditions of a Transportation Agreement dated October 1, 1998. Midwest is a distribution customer of KNI, which owns and operates facilities to transport, distribute, and sell gas to consumers in Kansas. Midwest has requested two additional delivery points (Midwest Energy Kearny Nos. 1 and 2) to serve irrigation load in Kearny County, Kansas. KNI proposes to deliver 9,480 Mcf on a peak day and 3,460,200 Mcf annually at Kearny No. 1 and 12,000 Mcf on a peak day and 4,380,000 Mcf annually at Kearny No. 2. KNI estimates the proposed cost of the tap and valve assemblies, meter and appurtenant facilities at each of the proposed delivery points to be $106,600 for Kearny No. 1 and $126,100 for Kearny No. 2. Midwest has agreed to reimburse KNI for the total costs related to the construction of the proposed delivery points.

KNI states the addition of the proposed delivery points will have no adverse impact on a daily or annual basis upon its existing customers. Additionally, KNI states the volumes of gas to be delivered at the proposed delivery points will be within the current maximum transportation quantities set forth in its transportation service agreement with Midwest. KNI asserts that the addition of the proposed delivery points is not prohibited by KNI's existing FERC Gas Tariff.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10038 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–282–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 16, 1999.

Take notice that on April 12, 1999, Reliant Energy Gas Transmission Company (REGT), formerly NorAm Gas Transmission Company, tendered for filing *pro forma* tariff sheets which REGT desires to take effect June 1, 1999.

These tariff sheets would institute new Rate Schedule HFT to provide hourly firm transportation service, to serve the peaking needs of electric generation customers and other shippers with similar requirements.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10034 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–315–000]

Reliant Energy Gas Transmission Company; Notice of Request Under Blanket Authority

April 16, 1999.

Take notice that on April 14, 1999, Reliant Energy Gas Transmission Company (REGT), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP99–315–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon certain facilities, located in Claiborne Parish, Louisiana, under REGT's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

REGT proposes to abandon a 1-inch delivery tap located in Section 29, Township 21 North, Range 7 West, Claiborne Parish, Louisiana, on a gathering line owned and operated by Reliant Energy Field Services, Inc. REGT states that this delivery tap has been inactive for twelve months and previously provided service to Reliant Energy Arkla, a distribution division of Reliant Energy, Incorporated (Arkla). REGT declares that Arkla provided distribution service to a small industry customer, Jan-Mar Oil Corporation (Jan-Mar).

REGT asserts that Arkla has not received gas through this delivery tap for delivery to Jan-Mar in more than a twelve month period. REGT states that Arkla and Jan-Mar have been notified of this abandonment. REGT declares that no active service will be affected by the abandonment of this tap.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10039 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. SA99–25–000, SA99–26–000, SA99–27–000, SA99–28–000, SA99–29–000 (Not Consolidated)]

Texaco Exploration and Production Inc.; Notice of Petition for Dispute Resolution or, Alternatively, and Adjustment

April 16, 1999.

Take notice that on March 10, 1999, Texaco Exploration and Production Inc. (Texaco), filed a petition for dispute resolution and adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA 15 U.S.C. 3412(c)) and Rules 1101–1117 of the Commission's Rules of Practice and Procedure (18 CFR 385.1101–385.1117).

Pipeline	Docket No.
Colorado Interstate Gas Company	[1] SA99–25–000
Northern Natural Gas Company	[2] SA99–26–000
Panhandle Eastern Pipe Company	[3] SA99–27–000
Williams Gas Pipelines Central, Inc.	[4] SA99–28–000
KN Interstate Gas Transmission Company	[5] SA99–29–000

[1] Changed from GP99–10–000.
[2] Changed from GP99–11–000.
[3] Changed from GP99–12–000.
[4] Changed from GP99–13–000.
[5] Changed from GP99–14–000.

Texaco requests that the Commission resolve its dispute with the pipelines by holding that settlements and/or release agreements resolved all issues, including those associated with Kansas ad valorem tax dispute resolution and adjustment, between the parties. Texaco contends that by agreeing in the settlement to forego claims it for nonperformance it otherwise could have continued to pursue, Texaco agreed to accept total payments under the contracts that did not exceed the MLP ceilings multiplied by the total volumes represented by each pipeline's nonperformance. In such circumstances, no refund should be required. To order otherwise would prevent Texaco from receiving the very benefits it bargained for in the settlements—settlements that the Commission itself strongly encouraged as a means to resolve the massive take-or-pay and underpayments liabilities of interstate pipelines and make the transition to a more market-responsive and competitive environment.

Texaco maintains that the pipelines and consumers benefitted from agreements and settlements because the settlements allowed the pipelines to avoid the much higher costs that full-performance of the contract would have entailed. By resolving ''all claims'' relating to, inter alia, ''contractural price'', the settlements resolved the Kansas ad valorem tax reimbursement issue. The Commission has found that these settlements served the public interest. Texaco's petitions are on file with the Commission, and they are open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10036 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–110–000, et al.]

Dominion Elwood Services Company Inc., et al. Electric Rate and Corporate Regulation Filings

April 13, 1999.

Take notice that the following filings have been made with the Commission:

1. Dominion Elwood Services Company, Inc.

[Docket No. EG99–110–000]

Take notice that on April 9, 1999, Dominion Elwood Services Company, Inc. (Dominion Elwood) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Dominion Elwood, a Virginia corporation, is a wholly-owned subsidiary of Dominion Energy, Inc. (DEI) also a Virginia corporation. DEI is a wholly-owned subsidiary of Dominion Resources, Inc., a Virginia corporation.

Dominion Elwood will operate a generating facility with a nominal capacity of 600 MW located near Elwood, Illinois, consisting of four 150 GE turbine generator sets, an approximately 0.3 mile long 345 kV transmission line, four 18/345 kV step up transformers, four 18kV/4160v auxiliary transformers, and associated circuit breakers. The facility will be interconnected with the transmission system of Commonwealth Edison Company.

Comment date: May 4, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. South Jersey Energy Company

[Docket No. ER97–1397–005]

Take notice that on April 8, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

3. Electrion Inc., Energy Clearinghouse Corporation, Quark Power L.L.C., Merrill Lynch Capital Services, Inc., Global Petroleum Corp., Global Energy Services, LLC, Burlington Resources Trading Inc., AMVEST Coal Sales, Inc.

[Docket Nos. ER98–3171–003, ER98–2020–003, ER97–2374–008, ER99–830–002, ER96–359–015, ER97–1177–008, ER96–3112–010, and ER97–464–010]

Take notice that on April 9, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

4. Western States Power Providers, Inc.

[Docket No. ER99–2418–000]

Take notice that on April 7, 1999, Western States Power Providers, Inc. filed a request for termination of their rate schedule.

Comment date: April 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Montana-Dakota Utilities Co.

[Docket No. ER99–2426–000]

Take notice that on April 8, 1999, the above-referenced public utility filed their quarterly transaction report for the quarter ending March 31, 1999.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Agway Energy Services—PA, Inc.

[Docket No. ER99–2313–000]

Take notice that on April 8, 1999, Agway Energy Services—PA, Inc. (AES), tendered for filing an Amended Filing to its Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority. Said amended filing consists of a chart of corporate affiliates, which was inadvertently omitted from its original filing on March 31, 1999.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Smarr EMC

[Docket No. ER99–2420–000]

Take notice that on April 8, 1999, Smarr EMC (Smarr), tendered for filing amendments to its Rate Schedule FERC No. 1. The amendments clarify provisions of the Rate Schedule and do not change the rate derived or revenues received under the Rate Schedule.

A copy of Smarr's filing has been served upon each of Smarr's Member-purchasers.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER99–2421–000]

Take notice that on April 8, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., has filed with the Twenty-Eighth Amendment (Amendment) to the Power Coordination, Interchange and Transmission Agreement (PCITA) between Entergy Arkansas, Inc., and Arkansas Electric Cooperative Corporation (AECC). Entergy Services states that, among other things, the Amendment adds additional delivery points between Entergy Arkansas, Inc., and AECC.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER99–2422–000]

Take notice that on April 8, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated February 4, 1999, with Florida Power & Light Company (FP&L) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds FP&L as an eligible customer under the Tariff.

PP&L requests an effective date of April 8, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to FP&L and to the Pennsylvania Public Utility Commission.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Northern Indian Public Service Company

[Docket No. ER99–2423–000]

Take notice that on April 8, 1999, Northern Indiana Public Service

Company (Northern Indiana), tendered for filing a Service Agreement pursuant to its Power Sales Tariff with American Municipal Power—Ohio, Inc., (AMP–Ohio).

Northern Indiana has requested an effective date of April 1, 1999.

Copies of this filing have been sent to AMP—Ohio, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Delmarva Power & Light Company

[Docket No. ER99–2424–000]

Take notice that on April 8, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing an executed umbrella service agreement with UGI Energy Services, Inc., under Delmarva's market rate sales tariff.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PacificCorp

[Docket No. ER99–2425–000]

Take notice that on April 8, 1999, PacificCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Systems Operating Service Agreement between PacificCorp and the Flathead Electric Cooperative, Inc. (Flathead) dated March 1, 1999.

PacifiCorp requests that the Commission accept for filing the enclosed Operating Agreement and assign an effective date of March 26, 1999.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. UtiliCorp United Inc.

[Docket No. ER99–2427–000]

Take notice that on April 8, 1999, UtiliCorp United Inc. (UtiliCorp), tendered for filing service agreements with Energy Transfer Group, L.L.C., for service under its Short-Term Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. UtiliCorp United Inc.

[Docket No. ER99–2428–000]

Take notice that on April 8, 1999, UtiliCorp United Inc. (UtiliCorp), tendered for filing service agreements with Energy Transfer Group, L.L.C., for service under its Non-Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Service, Inc.

[Docket No. ER99–2429–000]

Take notice that on April 8, 1999, Cinergy Services, Inc., acting as agent for and on behalf of its utility operating company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy), tendered for filing a service agreement under Cinergy's Cost-Based Power Sales Standard Tariff-CB (the Tariff) entered into between Cinergy and PP&L EnergyPlus Co., (EnergyPlus).

Cinergy and EnergyPlus are requesting an effective date of March 7, 1999.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Cinergy Services, Inc.

[Docket No. ER99–2430–000]

Take notice that on April 8, 1999, Cinergy Services, Inc., collectively as agent for and on behalf of its utility operating company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy), tendered for filing a service agreement under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and PP&L EnergyPlus Co. (EnergyPlus).

Cinergy and EnergyPlus are requesting an effective date of March 7, 1999.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Dayton Power and Light Company

[Docket No. ER99–2431–000]

Take notice that on April 8, 1999, The Dayton Power and Light Company (Dayton) tendered for filing an agreement with Hoosier Energy Electric Coop, Inc., in the above referenced docket.

Comment date: April 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. The Detroit Edison Company

[Docket No. ES99–36–000]

Take notice that on April 7, 1999, The Detroit Edison Company filed an Application pursuant to Section 204 of the Federal Power Act, seeking authorization to issue from time to time, on or before May 31, 2001, in an aggregate principal amount not to exceed $1.0 billion at any one time outstanding, short-term debt securities and promissory notes bearing final maturities not to exceed two years.

Detroit Edison also requests an exemption from the Commission's competitive bidding requirements.

Comment date: May 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Northwestern Corporation

[Docket No. ES99–37–000]

Take notice that on April 7, 1999, Northwestern Corporation (Northwestern) submitted an application, under Section 204 of the Federal Power Act, for authorization to issue (1) not more than 10 million shares of Northwestern's common stock, par value $1.75 per share, including related common stock purchase rights, and (2) not more than $300 million of Northwestern's mortgage bonds, notes, debentures, subordinated debentures, guarantees or other evidences of indebtedness, including so-called monthly income preferred securities, quarterly income preferred securities, trust originated preferred securities, trust preferred securities or variations thereof.

Northwestern also requested exemption from compliance with the Commission's competitive bidding or negotiated placement requirements at 18 CFR 34.2.

Comment date: May 5, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10027 Filed 4–21–99; 8:45 am]

BILLING CODE 6718–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–150–000 et al. and CP98–151–000]

Millennium Pipeline Company, L.P., Columbia Gas Transmission Corporation; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Millennium Pipeline Project

April 16, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this draft environmental impact statement (draft EIS) on natural gas pipeline facilities proposed by Millennium Pipeline Company, L.P. (Millennium) and Columbia Gas Transmission Corporation (Columbia) in the above-referenced dockets.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed projects, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The draft EIS also evaluates alternatives to the proposal, including system alternatives.

The draft EIS assesses the potential environmental effects of the construction and operation of the following facilities in New York and Pennsylvania:

Millennium:

- 373.5 miles of 36-inch-diameter mainline;
- 43.8 miles of 24-inch-diameter mainline;
- 3 measurement facilities; and
- Associated pipelines facilities, including mainline and block valves, pig launchers and receivers, remote blowdown valves, and remote cathodic protection rectifier beds.

The draft EIS also assesses the potential environmental effects of abandonment of these facilities by Columbia:

Abandonment by Conveyance to Millennium:

- 6.7 miles of 24-inch diameter pipeline in Rockland County, New York that would be used for the new mainline system between mileposts (MPs) 376.4 and 383.3;
- 20.1 miles of laterals and 28 metering and regulation stations in New York and Pennsylvania, and one compressor station in Pennsylvania; and

Abandonment in place or by removal:

- 222 miles of pipeline, Line A–5, in New York.

The purpose of the proposed projects would be to transport natural gas from Canada to markets in the eastern United States, including New York, Pennsylvania, and New Jersey.

Comment Procedures and Public Meetings

Any person wishing to comment on the draft EIS may do so. Please carefully follow these instructions to ensure that your comments are received in time and are properly recorded:

- Send two copies of your comments to: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Reference Docket No. CP98–150–000 *et al.;* and
- Mail your comments so that they will be received in Washington, DC on or before June 7, 1999.

In addition to written comments, we will hold ten public meetings in the project area to receive comments on the draft EIS. All meetings will begin at 7:00 pm, and are scheduled as follows:

May 17, 1999
Goshen High School, Scottstown Avenue, Goshen, NY, (914) 294–2433

May 18, 1999
Mark Twain Junior High School, 160 Woodlawn Avenue, Yonkers, NY, (914) 376–8540

May 18, 1999
Chautauqua Lake Central High School, 2 Academy Street, Mayville, NY, (716) 753–9305

May 19, 1999
Horseheads High School, 401 Fletcher Street, Horseheads, NY, (607) 739–5601

May 20, 1999
Binghamton High School, 31 Main Street, Binghamton, NY, (607) 762–8200

May 20, 1999
Wellsville Elementary School, 50–98 School Street, Wellsville, NY, (716) 593–5504

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impact described in the draft EIS. Transcripts of the meetings will be prepared.

Comments will be considered by the Commission but will not serve to make the commenter a party to the proceeding. Any person may file a motion to intervene on the basis of the Commission Staff's DEIS (see 18 CFR 380.106 and 385.214). You do not need intervenor status to have your comments considered.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the draft EIS as necessary, a final EIS will be published and distributed by the staff. The final EIS will contain the staff's responses to timely comments received on the draft EIS.

All intervenors, agencies, elected officials, local governments, special interest groups, libraries, media, and anyone providing written comments on the DEIS will receive a copy of the final EIS. If you do not wish to comment on the DEIS but wish to receive a copy of the final EIS, you must write to the Secretary of the Commission indicating this request. Individuals who do not indicate their desire to receive the final EIS will only receive the Executive Summary.

The draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, (202) 208–1371.

A limited number of copies are available from the Public Reference and Files Maintenance Branch identified above. In addition, the draft EIS has been mailed to Federal, state, and local agencies; public interest groups; individuals who requested a copy of the draft EIS; affected landowners; libraries; newspapers; and parties to this proceeding.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions.

For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10037 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11708–000.

c. *Data Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* John W. Flannagan Dam.

f. *Location:* On the Pound River near the towns of Haysi Clintwood, Dickenson County, Virginia, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)—825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' John W. Flannagan Dam and would consist of: (1) A new 50-foot-long, 72-inch-diameter steel penstock; (2) a new 30-foot-long, 30-foot-wide, 30-foot-high powerhouse containing three generating units having a total installed capacity for 3,000-kW; (3) a new exhaust apron; (4) a new 200-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 18 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,000,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10028 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11709–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Mississippi L&D #13.

f. *Location:* On the Mississippi River, near the city of Clinton, Clinton County, Iowa, and near the city of Fulton, Whiteside County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Mississippi River Lock and Dam No. 13 and would consist of: (1) Seven new 80-foot-long, 72-inch-diameter steel penstocks; (2) a new 200-foot-long, 50-foot-wide, 30-foot-high powerhouse containing one 7,600-kW generating unit; (3) a new exhaust apron; (4) a new 1.5-mile-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 46 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,500,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims..htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days, after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10029 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* P–11710–000.

c. *Date Filed:* March 26 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Falls Lake Dam.

f. *Location:* On the Neuse River near the city of Raleigh, Wake County, North Carolina, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Fall Lake Dam and would consist of: (1) A new 50-foot-long , 62-inch-diameter steel penstock; (2) a new 30-foot-long, 30-foot-wide, 30-foot-high powerhouse containing a 1,000-kW generating unit; (3) a new exhaust apron; (4) a new 500-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 5 GWh and that the cost of the studies to be performed under the terms of the permit would be $500,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1271. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Perliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10030 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* P–11711–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Peoria L&D.

f. *Location:* On the Illinois River, near the town of North Pekin, Peoria County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Peoria Lock and Dam and would consist of: (1) four new 50-foot-long, 84-inch-diameter steel penstocks; (2) a new 60-foot-long, 30-foot-wide, 30-foot-high submersible powerhouse containing four generating units with a total installed capacity of 6,600–kW; (3) a new exhaust apron; (4) a new 100-foot-long, 14.7–kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 40 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,500,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, is issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a notice to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10031 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11712–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Dresden Island L&D.

f. *Location:* On the Illinois River, near the city of Morris, Grundy County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp. 1145 Highbrook, Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers'

Dresden Island Lock and Dam and would consist of: (1) four new 50-foot-long, 84-inch-diameter steel penstocks; (2) a new 60-foot-long, 30-foot-wide, 30-foot-high powerhouse containing four generating units having a total installed capacity of 5,250–kW; (3) a new exhaust apron; (4) a new 0.5-mile-long, 14.7–kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 32 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,250,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans,—and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10032 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11714–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Kaskaskia L&D.

f. *Location:* On the Kaskaskia River, near the cities of Ellis Grove and Chester, Randolph County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Kaskaskia Lock and Dam and would consist of: (1) two new 50-foot-long, 96-inch-diameter steel penstocks; (2) a new 30-foot-long, 30-foot-wide, 30-foot-high powerhouse containing two generating units with a total installed capacity of 1,600–kW; (3) a new exhaust apron; (4) a new 300-foot-long, 14.7–kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 10 GWh and that the cost of the studies to be performed under the terms of the permit

would be $650,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www/ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project COMPETING APPLICATION'', Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10033 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meeting and Site Visit and Soliciting Scoping Comments

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2060–005.

c. *Date filed:* January 28, 1999.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Carry Falls Project.

f. *Location:* On the Raquette River, at river mile 68 from the confluence with the St. Lawrence River, in the town of Colton, St. Lawrence County, New York. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, P.E., Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–5561.

i. *FERC Contact:* Charles T. Raabe, charles.raabe@ferc.fed.us, 202–219–2811.

j. *Deadline for filing scoping comments:* June 11, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

1. Description of the Project: The project consists of the following existing facilities: (1) an 826-foot-long dam consisting of: (a) a 568-foot-long and 76-foot-high concrete gravity spillway with a crest elevation of 1,386 feet; and (b) a 258-foot-long and 63-foot-high concrete gated non-overflow spillway with two 14.5-foot by 27-foot Taintor regulating gates, two 10-foot-square low-level

sluice gates, and an intake structure with two 15-foot-square openings for future power installation; (2) five earth dikes totaling 2,500 feet in length, with lengths varying from 320 feet to 1,015 feet, maximum heights varying from 12 feet to 31 feet, each with a crest width of 12 feet at elevation 1,392 feet; (3) a 7-mile-long reservoir having a 3,000-acre surface area and a 107,478-acre-foot usable storage capacity at normal pool elevation 1,385 feet USGS; and (4) appurtenant facilities. The project has no installed generating capacity.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20246, or by calling (202) 208–1371. This application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Scoping Process: The Commission intends to prepare a multiple project Environment Assessment (EA) for the proposed relicensing of the Carry Falls Project, Upper Raquette River Project (FERC No. 2084), Middle Raquette River Project (FERC No. 2320), and Lower Raquette River Project (FERC No. 2330), in accordance with the National Environmental Policy Act of 1969. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

The Commission will hold one combined agency and public scoping meeting to help us identify the scope of issues to be addressed in the EA. All interested individuals, organizations, and agencies are invited to attend the meeting, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The meeting will be held on Tuesday, May 11, 1999, beginning at 7:00 p.m. in the Barben Room B, Cheel Center, Clarkson University, in the town of Potsdam, New York.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meeting.

Site Visit

The applicant and the Commission staff will conduct a project site visit on Tuesday, May 11, 1999. We will meet in the parking lot to the tailrace fishing platform at the South Colton development of the Upper Raquette River Project at 9:30 a.m. If you would like to attend, please call Jack Kuhn, Niagara Mohawk Power Corporation, at (315) 428–5042, no later than May 4, 1999.

Objectives

At the scoping meeting, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

The meeting will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the project. Individuals presenting statements at the meeting will be asked to sign in before the meeting starts and to identify themselves clearly for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10040 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meeting and Site Visit and Soliciting Scoping Comments

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2084–020.

c. *Date filed:* January 28, 1999.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Upper Raquette River Project.

f. *Location:* On the Raquette River, between river miles 52 and 68 from the confluence with the St. Lawrence River, in the towns of Colton and Parishville, St. Lawrence County, New York. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, P.E., Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–5561.

i. *FERC Contact:* Charles T. Raabe, charles.raabe@ferc.fed.us, 202–219–2811.

j. *Deadline for filing scoping comments:* June 11, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, 888 First Street, NE, Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

l. Description of the Project: The project consists of five developments:

Stark Falls Development comprising: (a) a 35-foot-high concrete gravity-type dam with a concrete overflow section and a control gate section flanked by earth dikes; (b) six earth saddle dikes; (c) a 1.5-mile-long reservoir at normal pool elevation 1,355.0 feet USGS; (d) an intake; (e) a penstock; (f) a powerhouse containing a 23,872-kW generating unit; and (g) appurtenant facilities;

Blake Falls Development comprising: (a) a 75-foot-high concrete gravity-type dam with a concrete overflow section; (b) an earth dike; (c) a 5.5-mile-long reservoir at normal pool elevation 1,250.5 feet USGS; (d) an intake; (e) a penstock; (f) a powerhouse containing a 13,913-kW generating unit; and (g) appurtenant facilities;

Rainbow Falls Development comprising: (a) a 75-foot-high concrete gravity-type dam with a concrete overflow section flanked by a 1,600-foot-long earth dike; (b) an earth saddle dike; (c) a 3.5-mile-long reservoir at normal pool elevation 1,181.5 feet USGS; (d) an intake; (e) a penstock; (f) a

powerhouse containing a 22,828-kW generating unit; and (g) appurtenant facilities;

Five Falls Development comprising: (a) a 50-foot-high concrete gravity-type dam with a concrete overflow section flanked at each end by an earth dike; (b) a 1.0-mile-long reservoir at normal pool elevation 1,077.0 feet USGS; (c) an intake; (d) a 1,200-foot-long penstock; (e) a powerhouse containing a 22,828-kW generating unit; and (f) appurtenant facilities; and

South Colton Development comprising: (a) a 45-foot-high concrete gravity-type dam with a concrete overflow section and earth abutments; (b) a 1.5-mile-long reservoir at normal pool elevation 973.5 feet USGS; (c) an intake; (d) a 1,300-foot-long penstock; (e) a powerhouse containing a 18,948-kW generating unit; and (f) appurtenant facilities. The project has a total installed capacity of 102,389 kW.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Scoping Process: The Commission intends to prepare a multiple project Environmental Assessment (EA) for the proposed relicensing of the Upper Raquette River Project, Carry Falls Project (FERC No. 2060), Middle Raquette River Project (FERC No. 2320), and the Lower Raquette River Project (FERC No. 2330), in accordance with the National Environmental Policy Act of 1969. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

The Commission will hold one combined agency and public scoping meeting to help us identify the scope of issues to be addressed in the EA. All interested individuals, organizations, and agencies are invited to attend the meeting, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The meeting will be held on Tuesday, May 11, 1999, beginning at 7:00 p.m. in the Barben Room B, Cheel Center, Clarkson University, in the town of Potsdam, New York.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meeting.

Site Visit

The applicant and the Commission staff will conduct a project site visit on Tuesday, May 11, 1999. We will meet in the parking lot to the tailrace fishing platform at the South Colton development of the Upper Raquette River Project at 9:30 a.m. If you would like to attend, please call Jack Kuhn, Niagara Mohawk Power Corporation, at (315) 428–5042, no later than May 4, 1999.

Objectives

At the scoping meeting, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

The meeting will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the project. Individuals presenting statements at the meeting will be asked to sign in before the meeting starts and to identify themselves clearly for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10041 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11680–000.

c. *Date Filed:* February 8, 1998.

d. *Applicant:* Price Dam Partnership, Ltd.

e. *Name of Project:* Price Dam.

f. *Location:* On the Mississippi River in St. Charles County, Missouri, near the town of Alton, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James B. Price, Ph.D., W.V. Hidro, Inc., 4165 Old Webb Creek Road, Gatlinburg, TN 37738, (423) 436–0402.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabeferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Melvin Price Locks and Dam and would consist of: (1) A new 60-foot-long, 150-foot-wide concrete powerhouse containing two generating units with a total installed capacity of 75,000–kW; (2) a new 20-foot-square switchyard; (3) a new 2-mile-long, 161–kV transmission line; and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 350 GWh and that the cost of the studies to be performed under the terms of the permit would be $100,000. Project energy would be sold to a subsidiary of Ameron Corp.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims/htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.26.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385,214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS, ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10042 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11692–000.

c. *Dated Filed:* March 5, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Kentucky L&D #13.

f. *Location:* On the Kentucky River in Lee County, Kentucky, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Kentucky River Lock and Dam No. 13 and would consist of: (1) Two new 50-foot-long, 72-inch-diameter steel penstocks; (2) a new 50-foot-long, 40-foot-wide, 30-foot-high powerhouse containing two generating units with a total installed capacity of 2,000-kW; (3) a new exhaust apron; (4) a new 300-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 12.3 GWh and that the cost of the studies to be performed under the terms of the permit would be $700,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the

particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service or Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10043 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application*: Preliminary Permit.

b. *Project No.*: P–11706–000.

c. *Date Filed*: March 22, 1999.

d. *Applicant*: Renewable Power and Light of Saylorville, LLC.

e. *Name of Project*: Saylorville.

f. *Location*: On the Des Moines River, near the city of Des Moines, Polk County, Iowa utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact*: Mr. Tim Belinski, Renewable Power and Light of Saylorville, LLC, 115 AABC, Aspen, CO 81611, (970) 920–6597.

i. *FERC Contact*: Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date*: 60 days from the issuance date of this notice.

k. *Description of Project*: The proposed project would utilize the existing U.S. Army Corps of Engineers' Saylorville Dam and would consist of: (1) Thirty-six new 280-kW submersible bulb-type generating units mounted on three independent movable racks for a total installed capacity of 10,080-kW; (2) six new 4,160-volt buried cables and a 100-pair buried control cable; (3) a new 30-foot-square generator control building; (4) a new 45-foot-long, 30-foot-wide 4.16-kV/13.8-kV switchyard; (5) a new 7,000-foot-long, 13.8-kV transmission line; and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 50,000 MWh and that the cost of the studies to be performed under the terms of the permit would be $100,000. Project energy would be sold.

l. *Locaitons of the application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development

application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An Additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10044 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 16, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11707–000.

c. *Date Filed:* March 26, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Brandon Road L&D.

f. *Location:* On the Des Plaines River, near the town of Channahon, Will County, Illinois, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger Universal Electric Power Corp. 1145 Highbrook Street Akron, OH 44301 (303) 535–7115

i. *FERC Contract:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Brandon Road Lock and Dam and would consist of: (1) three new 80-foot-long, 54-inch-diameter steel penstocks; (2) a new 60-foot-long, 30-foot-wide, 30-foot-high powerhouse containing three generating units with a total installed capacity of 3,000–kW; (3) a new exhaust apron; (4) a new 1-mile-long, 14.7–kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 18 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,000,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http:/www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—a notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be

filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any failings must bear in all capital letters, the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10045 Filed 4–21–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[OPPTS–00268; FRL–6077–4]

Renewal of Toxics Information Collection Activities; Residential Lead-Based Paint Hazard Disclosure Requirements; Request for Comments

AGENCIES: The Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD).

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this notice announces that EPA and HUD are planning to submit the following Information Collection Request (ICR) renewal to the Office of Management and Budget (OMB) for review and approval: ''Residential Lead-Based Paint Disclosure Requirements,'' (EPA ICR No. 1710.03, OMB No. 2070–0151). This ICR involves a collection activity that is currently approved by OMB. The ICR describes the nature of the information collection activity and the estimated burden and costs associated with the collection activity. Before submitting the ICR renewal to OMB, EPA and HUD are soliciting comments on specific aspects of the information collection described in this document.

DATES: Written comments must be submitted on or before June 21, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of this document. To ensure proper receipt by EPA, your comments must identify docket control number OPPTS–00268 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information*: Joe Carra, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov or Warren Friedman, Director, Planning and Standards Division, Office of Lead Hazard Control, Department of Housing and Urban Development, 451 7th St., SW., (P–3206), Washington, DC 20460; telephone: (202) 755–1785, ext. 159, TTY: 800–877–8339, Fax: (202) 755–1000; e-mail address: warren__friedman@hud.gov.

For technical information: Dayton Eckerson, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–1591, Fax: (202) 260–0770; e-mail address: eckerson.dayton@epa.gov or David K. Levitt, Planning and Standards Division, Office of Lead Hazard Control, Department of Housing and Urban Development, 451 7th St., SW., (P–3206), Washington, DC 20460; telephone: (202) 755–1785, ext. 156, TTY: 800–877–8339, Fax: (202) 755–1000; e-mail address: david__k.__levitt@hud.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This ICR Apply To Me?

You may be affected by this ICR if you are a seller, purchaser, lessor, or lessee of a non-exempt residential dwelling built before 1978, or a real estate agent representing such parties. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	SIC	Examples of potentially affected entities
Real Estate Operators/Lessors	53111	651	Lessors of residential buildings Lessors of residential dwellings

Categories	NAICS	SIC	Examples of potentially affected entities
Offices of Real Estate Agents/Property Managers	53121 531311	653	Real estate agents Real estate brokers Property managers
Private Parties—Sales Transactions	None	None	Sellers and buyers of houses, townhouses, and cooperatives/condominiums
Private Parties—Rental Transactions	None	None	Lessors and lessees of residential dwellings

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed above could also be affected. If available, the four-digit Standard Industrial Classification (SIC) codes or the six-digit North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR 745.100. If you have any questions regarding the applicability of this action to a particular entity, you may also consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' at the beginning of this document.

B. How Can I Get Additional Information or Copies of This Document or Other Documents?

1. *Electronically*. Electronic copies of this document and the ICR are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/). You can easily follow the menu to find this **Federal Register** notice using the publication date or the **Federal Register** citation for this notice. Although a copy of the ICR is posted with the **Federal Register** notice, you can also access a copy of the ICR by going directly to http://www.epa.gov/icr/. You can then easily follow the menu to locate this ICR by the EPA ICR number, the OMB control number, or the title of the ICR.

2. *In person or by phone*. If you have any questions or need additional information about this action, you may contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this notice, including the public version, has been established for this notice under docket control number OPPTS–00268. This record includes not only the documents that are physically located in the docket, but also all the documents that are referenced in those documents. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in the TSCA Nonconfidential Information Center, Rm. NE B–607, Waterside Mall, 401 M St., SW., Washington, DC, from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Nonconfidential Information Center telephone number is (202) 260–7099.

II. How Can I Respond To This Notice?

A. How And To Whom Do I Submit The Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, you must identify docket control number OPPTS–00268 in the subject line on the first page of your response.

1. *By mail*. Submit written comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver written comments to: Document Control Office in Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC; telephone: (202) 260–7093.

3. *Electronically*. Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov. Do not submit any information electronically that you consider to be Confidential Business Information (CBI). Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disk in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–00268. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want To Submit To the Agency?

You may claim information that you submit in response to this notice as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must also be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

C. What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

D. What Should I Consider When I Prepare My Comments for EPA?

We invite you to provide your views on the estimates provided, new approaches that may help to minimize the burden, and any data or information that you would like the Agency to

consider during the development of the final ICR. You may find the following suggestions helpful for preparing your comments:

—Explain your views as clearly as possible.

—Describe any assumptions that you used.

—Provide solid technical information and/or data to support your views.

—If you estimate potential burden or costs, explain how you arrived at the estimate.

—Provide specific examples to illustrate your concerns.

—Offer alternative ways to improve the collection activity.

—Make sure to submit your comments by the deadline in this notice.

At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. To ensure proper receipt by EPA, you must identify the docket control number assigned to the notice in the subject line on the first page of your response. You may also provide the name, date, **Federal Register** citation, and/or the appropriate EPA or OMB ICR number.

III. What Information Collection Activity or ICR Does This Notice Apply To?

EPA and HUD are seeking comments on the following ICR:

Title: Residential Lead-Based Paint Hazard Disclosure Requirements.

ICR numbers: EPA ICR No. 1710.03, OMB No. 2070–0151.

ICR status: This ICR is currently scheduled to expire on April 30, 1999, but EPA and HUD have requested an extension to ensure that there is adequate time to review comments prior to submission of the renewal request to OMB. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d) requires that sellers and lessors of most residental housing built before 1978 disclose known information on the presence of lead-based paint and lead-based paint hazards, and provide an EPA-approved pamphlet to purchasers and renters before selling or leasing the housing. Sellers of pre-1978 housing are also required to provide prospective purchasers with 10 days to conduct an inspection or risk assessment for lead-based paint hazards before obligating purchasers under contracts to purchase the property. The rule does not apply to rental housing that has been found to be free of lead-based paint, 0-bedroom dwellings, housing for the elderly, housing for the handicapped, or short-term leases.

The affected parties and the information collection related requirements related to each are described below:

1. *Sellers of pre-1978 residential housing.* Sellers of pre-1978 housing must attach certain notification and disclosure language to their sales/leasing contracts. The attachment lists the information disclosed and acknowledges compliance by the seller, purchaser, and any agents involved in the transaction.

2. *Lessors of pre-1978 residential housing.* Lessors of pre-1978 housing must attach notification and disclosure language to their leasing contracts. The attachment, which lists the information disclosed and acknowledges compliance with all elements of the rule, must be signed by the lessor, lessee, and any agents acting on their behalf. Agents and lessees must retain the information for 3 years from the completion of the transaction.

3. *Agents acting on behalf of sellers or lessors.* Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 specifically directs EPA and HUD to require agents acting on behalf of sellers or lessors to ensure compliance with the disclosure regulations.

IV. What Are EPA's Burden And Cost Estimates For This ICR?

Under PRA (44 U.S.C. 3501 *et seq.*) ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. Although these requirements also apply to the Federal government, the PRA does not require EPA and HUD to estimate the potential burden or costs associated with the information collection activities performed by Federal agencies. For this collection it includes the time needed to amend this list as appropriate, but use these terms; review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here. The annual burden for this ICR is estimated to average 0.12 hours (7.2 minutes) per response, with an estimated average cost of $1.66 per response. The following is a summary of the total estimates taken from the ICR:

Respondents/affected entities: Sellers, purchasers, lessors, and lessees of non-exempt residential dwellings built before 1978, or a real estate agents representing such parties.

Estimated total number of potential respondents: 16,144,922

Frequency of response: As needed only when specific data are required.

Estimated total/average number of responses for each respondent: 61,798,605.

Estimated total annual burden hours: 7,666,200.

Estimated total annual burden costs: $102,500,273.

Please note that in developing the burden estimates, the agencies have not distinguished between the burden associated with the compliance activities of private parties and those of Federal entities. The agencies are currently analyzing the total burden estimates, to determine what portion of the estimate represents the burden associated with the compliance activities of Federal entities. Since, the agencies are not required to include the burden on Federal entities in the total burden estimate reported under the PRA, the total burden will be reduced accordingly prior to submission to OMB.

V. Are There Changes in the Estimates From the Last Approval?

Yes. Since the ICR for the final rule was prepared approximately 3 years ago, several factors relating to the ICR have changed significantly. Among the more significant changes affecting estimates in the ICR are the following:

1. Wage rates, the cost of the required lead hazard pamphlets, and photocopying costs have increased.

2. The number of annual real estate sale and rental transactions has increased by approximately 3%.

3. The number of real estate agents and property managers has increased by approximately 22%.

4. The number of property owners and lessors has increased by approximately 16%.

The estimated startup costs in the revised ICR are no longer annualized over 3 years, resulting in a substantial decrease in burden. In addition, the agencies expect the total burden presented above to be reduced further prior to submission to OMB, to reflect the portion of the estimate that represents the burden associated with the compliance activities of Federal entities. As indicated Unit IV. of this document, the agencies are not required to include this burden under the PRA.

EPA and HUD are particularly interested in receiving comments on the changes related to the burden estimates for this relatively new program.

VI. What Is The Next Step In The Process For This ICR?

EPA and HUD will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.10. EPA and HUD will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

List of Subjects

Environmental protection, Health and safety, Lead, Reporting and recordkeeping requirements.

Dated: April 15, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances, EPA.

Dated: April 12, 1999.

David S. Cristy,

Director, IRM Policy and Management, HUD.

[FR Doc. 99–10238 Filed 4–20–99; 1:21 pm]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6321–9]

Hackensack Meadowlands Special Area Management Plan

AGENCY: White House Council on Environmental Quality, Department of Defense (U.S. Army Corps of Engineers), Environmental Protection Agency, Department of Commerce (National Oceanic and Atmospheric Administration), and the Department of the Interior (U.S. Fish and Wildlife Service), the Hackensack Meadowlands Development Commission, and the New Jersey Department of Environmental Protection.

ACTION: Notice of proposed changes.

SUMMARY: The Federal and State agencies that have been partners in the development of the proposed Special Area Management Plan (SAMP) for the Hackensack Meadowlands are providing this notice of their intention to complete the SAMP by September 15, 1999, and to make modifications to the proposed SAMP to reflect: developments subsequent to publication of the July 21, 1995 Notice of Availability of the draft Environmental Impact Statement (EIS); the agencies' further review of the pertinent scientific issues; and input from meetings with interested members of the public.

The changes focus primarily on reductions in the fill of wetlands acreage proposed previously, to more effectively preserve the integrity of the Hackensack Meadowlands ecosystem as a whole, while providing greater regulatory certainty for development projects likely to proceed. This will be achieved through three major changes to the proposed SAMP: (1) A significant reduction in overall acreage of fill, with reductions focused on the largest wetlands fill proposal; (2) more extensive measures to protect remaining acreage from development; and (3) modifications in methodologies and regulatory products to conform to these proposed changes.

FOR FURTHER INFORMATION CONTACT: Robert W. Hargrove, Chief, Strategic Planning & Multi-Media Programs Branch, U.S. Environmental Protection Agency—Region 2, 290 Broadway, New York, New York 10007, (212) 637–3504, E-Mail: hargrove.robert@epamail.epa.gov.

Joseph J. Seebode, Chief, Regulatory Branch, U.S. Army Corps of Engineers—New York District, Jacob K. Javits Federal Building, New York, New York 10278–0090, (212) 264–3996, E-Mail: Joseph.J.Seebode@usace.army.mil.

SUPPLEMENTARY INFORMATION:

Background:

The Hackensack Meadowlands District (District) is a 32-square mile area that includes portions of 14 municipalities in two counties in Northeastern New Jersey. The District, which once contained approximately 17,000 acres of wetlands, has lost nearly half of these wetlands as a result of hydrologic and environmental alterations, primarily filling and draining for development. The remaining undeveloped areas within the District are mostly wetlands (approximately 8,500 acres including open water) and are under substantial development pressure.

In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers' (USACE) regulations for implementing NEPA; the U.S. Environmental Protection Agency's (EPA) procedures for the voluntary preparation of EISs on significant regulatory actions, and the 1980 Amendments to the Coastal Zone Management Act, a draft EIS was issued in June 1995 on a proposed SAMP for the District. The SAMP is a comprehensive plan providing for natural resource protection, remediation of pollution, and reasonable economic growth in the District. It presents a comprehensive statement of policies and criteria to guide future land use and environmental management in the District, including preservation, restoration and enhancement of the District's environmental resources, and meeting economic and social needs. The public comment period on the draft EIS closed on December 1, 1995.

Update:

During the comment period, we received over 1000 comments, most of which were highly critical of the preferred alternative presented in the draft EIS. A number of constituent groups, ranging from environmental organizations to prospective permit applicants, raised concerns and were offered an opportunity to expand upon their comments in meetings with the relevant agencies. In addition to concerns expressed by many environmental stakeholders, the Department of the Interior (DOI) identified the Hackensack Meadowlands SAMP as a candidate for referral to the Council on Environmental Quality (CEQ) if its concerns could not be resolved. Although there was a great deal of overlap in the concerns raised, they highlighted the need to make some substantial revisions to the SAMP prior to the release of the final EIS. The

concerns raised most frequently include:

- Growth Needs;
- Out of District Alternatives;
- Hybrid elements and process;
- Environmental Improvement Program funding mechanisms;
- 404 Issues vs. SAMP Goals;
- Environmental Improvement Program linkage to SAMP;
- Regulatory Products/General Permit;
- Community Facilities/Cost of Public Services;
- Transportation Components;
- Wetland Impacts/AVID vs. IVA; and
- Fisheries Impacts.

Since the close of the comment period, the involved agencies have been evaluating the comments received and have been working to address these comments. In some subject areas, additional field work, re-evaluation, and re-analysis have been necessary.

Since late June 1997, CEQ, the federal SAMP partners (EPA, USACE and NOAA), the DOI, and the U.S. Fish and Wildlife Service (FWS) have been meeting with a view towards resolving public concerns about the SAMP. These meetings have been closely coordinated with the Hackensack Meadowlands Development Commission (HMDC) and the New Jersey Department of Environmental Protection (NJDEP). Moreover, CEQ has also held meetings with the involved federal and state agencies, representatives from environmental groups and representatives from the business community.

These consultations have resulted in a series of proposed changes to the proposed SAMP to address concerns about the following issues: the Projected Development Needs; the amount and distribution of the projected acres of wetlands fill; the Environmental Improvement Program (EIP); the Wetland Indicator Value Assessment (IVA) Methodology; the Alternatives Analysis; and Regulatory Products. Our progress in discussing and resolving the issues surrounding these topics is outlined below.

Needs Analysis

The Needs Analysis for the District is an economic development projection for the next 20 years. In response to comments received on the draft SAMP/EIS, the HMDC has proposed substantial reductions to its projected development needs for the next 20 years. Most significantly, HMDC has proposed to reduce its projected housing and primary office space needs by close to 80 percent and 40 percent, respectively.

In an effort to ensure that the methodology used in projecting the development needs is appropriate, the federal agencies sent HMDC a comprehensive list of concerns about the Needs Analysis and its supporting documentation. The federal concerns were identified through the deliberations of the EIS Subcommittee and subsequent meetings. The federal agencies met with HMDC and its consultants to discuss their preliminary responses to our concerns. We have reviewed HMDC's written response to many of the questions asked and received a revised Needs Analysis. While the need for various kinds of development has been established by HMDC, the parties to this notice have agreed that all the development needs, and particularly the need for housing units, may not be fulfilled. HMDC has agreed to remove the majority of the zoning for housing units that was proposed in the draft EIS. It is assumed that the municipalities will meet their low and moderate income housing requirements through the Council on Affordable Housing.

Projected Acres of Wetlands Fill

One of the most significant and widely shared concerns raised during the draft EIS comment period was the amount of wetlands fill projected for the preferred development plan for the District. In addition to concern about the amount of wetlands fill, several parties, including DOI, expressed concern that the distribution of wetlands fill would have significant detrimental impacts on the overall habitat quality of the District because of fragmentation, regardless of the quality of the wetlands on the property. Specifically, concern was expressed that because the District represents one of the last remaining large open space parcels in the New York metropolitan area, the loss of the wetlands and open space projected in the draft EIS could have significant adverse effects on wildlife's ability to effectively use the landscape. Accordingly, the parties to this notice agreed to explore opportunities to further reduce the amount of wetlands fill associated with the development proposed under the SAMP.

The plan proposed in the draft EIS called for 842 acres of wetlands fill (for development and transportation projects) and approximately 3,400 acres of compensatory mitigation. As a result of the HMDC's proposed modifications to its projected development needs, strict application of the HMDC's open space policies and sound land use planning principles, expected fill reductions through the Section 404 permit review process, and the recognition that some projects have already been approved, the wetlands fill associated with the SAMP was reduced following the close of the draft EIS comment period. Despite these efforts to reduce the wetlands fill associated with the SAMP, however, the parties to this notice believe that the importance of the Meadowlands as one of the last major wetlands ecosystems in the region, the compelling water quality and habitat concerns affecting the Hackensack River watershed, and the deleterious effects of further fragmentation of wetlands parcels that would result from wetlands fill, militate for further steps to reduce permissible wetlands fill in the District—even where the wetlands may be degraded in their current state.

The parties to this notice have undertaken a further review of the scale and distribution of further acreage reductions that would be appropriate for a comprehensive plan for the Meadowlands resource base, primarily to avoid excessive disruption of an integral wetlands landscape at the center of the District where the Empire tract is located. In evaluating the scale and distribution of further acreage reductions, the SAMP process evaluates the functions and values of the aquatic ecosystem on a comprehensive basis. This approach may identify proposals for development that are different from those that would result from case-by-case permit decisions by the USACE or zoning decisions by other agencies in the absence of a final SAMP. Within this context of planning, proposed development under the SAMP approach, the parties to this notice have identified the need to substantially reduce the acreage proposed in prior SAMP drafts for the Empire Tract. Based on consultation to date, the parties to this notice are proposing a limit in the range of approximately 80 to 90 acres of fill (net buildable area after minimization) for the Empire Tract; mitigation requirements would be scaled accordingly. (This limit assumes that a further four to seven acres of fill may be appropriate for passive water control infrastructure to protect waters of the United States from polluted runoff.) This proposal would focus development on areas of the property, in proximity to existing industrial and commercial development, where wetland values have been significantly diminished.

This proposed reduction would not otherwise affect the fill acreage for development proposed for other tracts, nor would it affect the fill associated with transportation projects anticipated as part of the final SAMP. The following

table presents the current projections for wetlands fill under the SAMP.

SAMP PROJECTED WETLANDS FILL

	Acres
Empire, Ltd. (Site 4)	90.5
Berry's Creek Center (Site 7)	23.1
U.O.P. Site (Site i)	15.0
Murray Hill Circle (Site w)	28.4
Bellemeade (Site x)	29.8
North Bergen (Site v)	17.5
Rutherford Landfill (Site bd)	35.6
Guarini Tract (Site be)	34.8
F.D. & P. Site (Site as)	53.5
SK Services, Inc. (Site bh)	17.9
General Permit Sites (approx. 25 sites)	67.7
Transportation Projects	51.9
Total	465.7

As shown in the above table, the total amount of wetlands fill associated with development and transportation projects under the SAMP has been greatly reduced. In recognition of this reduction, the parties to this notice propose to establish a cap of 465 acres on the wetlands fill associated with development and transportation projects under the SAMP. Except for the Empire, Ltd. and F.D. & P. Projects, further reductions of wetlands fill may be realized through site-specific minimization. It must be noted, however, that some activities outlined in the EIP (e.g., closure of orphaned landfills, remediation of hazardous waste sites, and some habitat enhancement measures, which could require the construction of uplands in existing wetlands) may impact (e.g., through fill and/or material extraction) minor wetlands areas. Exact wetlands impacts of these activities will be evaluated in the final EIS. Moreover, these activities, while fully supported by the SAMP, will have to obtain all state and federal regulatory approvals. We are specifically inviting public comment on this aspect of the proposal prior to completion of the SAMP.

In considering this proposal for the SAMP, the public should note that because the USACE has an individual permit application for the Empire tract under evaluation, the USACE must proceed with its permit review process concurrent with continued development of the SAMP. Pending regulatory decisions, approvals, and related actions by parties to this notice also will proceed concurrently, until the SAMP is finalized. The USACE's evaluation process, and that of other agencies, will consider all information and alternatives developed during the SAMP process.

Enhancing Conservation

There are a series of measures put forth in the draft EIS to ensure that the fill proposed in the SAMP document constitutes full build-out for the District, including: deed restrictions, zoning, conservation easements, and the use of a conservancy. Since the draft EIS was issued, the HMDC has taken positive steps to implement some of these mechanisms. Most significantly, the HMDC has acquired over 1000 acres of wetlands over the past three years, and is currently exploring the possibility of acquiring an additional 600 acres. A Hackensack Meadowlands Conservancy has been approved by the New Jersey State Legislature, and was signed into law by Governor Whitman on March 2, 1999. Furthermore, in light of the particular development pressures in the Meadowlands District, the parties to this notice agree that wetlands preservation of otherwise developable properties may be an appropriate part of mitigation strategies, where that approach is consistent with national policy and appropriate to support further reductions in wetlands fill. Similarly, the agencies will assign priority to encourage acquisition as an element of Supplemental Environmental Projects developed in the context of enforcement actions. To ensure full realization of the SAMP's wetlands preservation goals, including that development activities will not result in unacceptable adverse effects to aquatic resources, EPA will consider the use of its veto authority under Section 404(c) of the Clean Water Act.

Furthermore, the Federal agencies will work with the State of New Jersey and local government agencies to pursue other tools and resources to ensure permanent preservation of wetland acreage not identified for development as part of the SAMP. In particular, the DOI will work with the State of New Jersey on a joint proposal for acquisition of wetland acreage through the North American Wetlands Conservation Act for submission in August 1999. Moreover, the FWS is reviewing a request that it consider the establishment of a National Urban Wildlife Refuge that would encompass portions of the District.

In addition, President Clinton's budget for Fiscal Year 2000 includes two new tools to support collaborative work by Federal, state, and local agencies to preserve wetlands in the Meadowlands. The first is a $1 billion Lands Legacy Initiative—the largest one-year investment ever in the protection of America's land resources. This FY 2000 budget proposal—a 125 percent increase over FY 1999—expands federal efforts to save America's natural treasures, and provides significant new resources to states and communities to protect local green spaces like the Meadowlands. Second, the budget includes a total of $700 million over five years for tax credits to finance Better America Bonds. This funding will support federal tax credits enabling state, local and tribal governments to issue $9.5 billion in bonds over 5 years to preserve open space. Federal agencies will provide assistance to State and local government agencies in New Jersey in developing proposals to qualify for this new funding, once approved by Congress.

Governor Whitman's Open Space Program, which was approved by New Jersey voters in November 1998, is an additional tool which will be pursued in attempting to preserve wetlands in the Meadowlands. This program constitutionally dedicates approximately $1 billion over the next ten years from state sales tax revenue for the purpose of acquiring and preserving 1 million acres of open space in New Jersey.

Environmental Improvement Program (EIP)

The HMDC's EIP provides a comprehensive, multi-media set of programs designed to remediate existing pollution and to prevent future pollution. The federal agencies have identified five concerns about the EIP: (1) the relationship of the EIP to the land use development alternatives; (2) the identification of essential and non-essential EIP projects; (3) the prioritization of projects within the EIP; (4) the security and stability of future EIP funding; and, (5) the measurement of EIP success.

The parties to this notice have met to discuss these issues and have resolved most of the issues. In particular, a new approach of conducting separate analyses for the EIP and the development alternatives, including the Section 404(b)(1) compliance analysis has been agreed to, and updated information on EIP projects and the proposed funding mechanisms has been requested from HMDC.

Wetlands Indicator Value Assessment (IVA) Methodology

The IVA methodology will be used to compare the wetland impacts of alternative development scenarios. The federal agencies have discussed the sufficiency of the IVA in its current form for comparing wetlands impacts at the programmatic level. Consensus was reached that the IVA is sufficient for addressing water quality improvement

and social significance functions. Consensus was also reached on a way to supplement the existing IVA wildlife habitat attribute to provide a greater level of detail.

The federal representatives on the IVA work group, in cooperation with biologists from the HMDC and the NJDEP, are working to supplement the existing general fish and wildlife attributes of the IVA method with attributes that are more precisely defined to represent species groups that the agencies agree are of management concern in the District. These groups include waterfowl, wading birds, migratory shorebirds, passerine birds, and juvenile anadromous and forage fish. The method has been revised to incorporate these modifications. The supplemental methodology is being reviewed by independent experts; we expect the independent expert review to be completed by April 1999.

To address the need to augment the IVA method with site-specific field data for individual Section 404 permit reviews, we are developing a protocol for field work requirements. This protocol will allow applicants to better anticipate the type and amount of field data that will be required for processing applications for USACE permits, and will also improve the quality of the information used in making permit decisions.

In addition, the federal agencies, in cooperation with the HMDC and the NJDEP, are developing a comprehensive wildlife management plan for the District. This plan will help guide future wildlife management decisions in the District and help in the establishment of goals and performance standards for wetland mitigation projects. Thus far, the agencies have reached consensus on the priority species groups of management concern in the District, which include the above-mentioned wetland dependent groups as well as grassland birds, raptors, and State-listed species. The FWS is currently preparing a revised draft of the wildlife management plan that identifies the specific management objectives for these species groups and identifies broader landscape level management objectives. The next step, to be completed by June 1, 1999, will be to identify specific management strategies to meet these objectives.

Alternatives

The federal agencies want to ensure that the full range of practical alternative land use scenarios for future growth and environmental preservation are evaluated and meet the requirements of Section 404 of the Clean Water Act and NEPA, while being respective of property rights.

Based on our discussions, we intend to perform an alternatives analysis that evaluates the following scenarios: no action; uplands/redevelopment; the FWS's February 1997 proposal; the HMDC's preferred development configuration; and an out-of-District alternative. For the out-of-District alternative, we have agreed on a process to evaluate potential sites. We have agreed on a 25 acre parcel size and several criteria for the exclusion of sites from consideration (e.g., wetlands, active camp sites, parkland, and cemeteries). We will then be conducting a second level evaluation to look at land use compatibility, implementability/feasibility, and environmental impacts. The out-of-District analysis will be available for public review during the outreach efforts outlined in the project completion schedule at the end of this notice of proposed SAMP revisions, and will be included in the final EIS.

Regulatory Products

At the time of publication of the draft EIS, two major regulatory products were proposed to enhance efficiency, while providing needed environmental protection measures in the Hackensack Meadowlands. First, a General Permit (GP) authorized by section 404(e) of the Clean Water Act was proposed to allow authorization of: (a) development with less than 15 acres of wetland fill; (b) transportation projects with less than one acre of wetland fill; and (c) wetland mitigation projects and banks. The second regulatory product, aimed at addressing development projects entailing over 15 acres of wetland fill, and larger transportation projects, was an Abbreviated Processing Procedure (APP). The APP would streamline the permit review process for projects consistent with the SAMP.

A substantial number of comments were received in response to the draft EIS, opposing the proposed GP, and implementation of the APP. These comments must be considered, however, in light of the significant wetlands fill reductions that are proposed by this notice. Consistent with the acreage reduction goal, the USACE, in consultation with the parties to this notice, has proposed modifications to both regulatory products to address environmental concerns. The wetlands fill associated with development projects under the GP would be reduced to a 10 acre threshold, and require that all wetland impacts be fully mitigated.

The parties to this notice have decided to retain the APP for SAMP-consistent development projects involving wetlands fill greater than 10 acres. The APP would streamline time frames normally required for evaluating an individual permit application by tiering off information made available through the SAMP process. The APP continues to require the full public interest and federal agency review process now employed, including development/implementation of appropriate value-for-value mitigation. Permit applications under the APP may utilize data developed in the SAMP towards documentation of compliance with the section 404(b)(1) Guidelines, analysis of out-of-district alternatives, and NEPA documentation. As such, no additional off-site analysis will be required. However, data/information developed to support the APP (e.g., the out-of-District alternatives analysis) will have to be updated every five years.

We expect that these regulatory enhancements will substantially reduce the processing time for section 404 permits for projects that are consistent with the SAMP. Specifically, assuming an applicant follows the process that will be outlined in the SAMP, projects subject to the GP would be authorized in less than six months; projects subject to the APP would be authorized in less than a year.

In addition to the aforementioned regulatory products, the parties to this notice have established a joint coordination framework to evaluate proposed wetlands mitigation, habitat restoration, and mitigation banks proposed for the District. The Meadowlands Interagency Mitigation Advisory Council (MIMAC) was established by written agreement in 1997, and has been meeting on a monthly basis since early 1998. The MIMAC Agreement established coordination procedures that will be implemented as part of the SAMP; however, it was recognized that those procedures would be immediately useful in coordinating the planning, implementation, and monitoring of compensatory mitigation projects in the District. To date, the MIMAC has provided comments to the USACE on numerous mitigation projects in the District, and two mitigation banks have been permitted and are under construction.

Under this proposal, any SAMP-consistent project that has HMDC General Plan approval would be exempt from the development moratorium that is intended to be imposed as part of the SAMP implementation process. The application review process could proceed immediately following publication of the Record of Decision for

the SAMP; project construction could begin upon receipt of required permits.

The regulatory products proposed for SAMP-consistent projects are intended to provide a high degree of certainty to the affected public concerning future regulatory decisions. As such, the parties to this notice acknowledge that, upon completion of the SAMP and in the absence of new information (i.e., information unavailable at the time of the final SAMP), there will be a heavy presumption against adverse agency comment and/or action (including but not limited to elevation or veto of section 404 permits pursuant to sections 404(q) or 404(c) of the Clean Water Act, respectively, or referral to CEQ under NEPA) for SAMP-consistent projects. This presumption will not limit the parties' to this notice right to comment (either through the MIMAC or as individual agencies) on site-specific minimization and/or mitigation aspects of individual section 404 authorizations.

Effect of this Notice: In this proposal, the parties to this notice have taken a more comprehensive approach in evaluating the scale and distribution of further acreage reductions, as is appropriate for a comprehensive plan for the Meadowlands resource base, and consequently their conclusions may differ from the conclusions that might be reached in the context of an individual regulatory decision, such as a decision on an individual permit application. Therefore, nothing in this **Federal Register** notice shall be construed to affect any agency's discretion to evaluate all reasonable alternatives and to render final regulatory decisions including, without limitation, the USACE decisions pursuant to section 404 of the Clean Water Act and section 10 of the River and Harbors Act if the SAMP is not timely completed. If the SAMP is not completed, the USACE and other agencies will continue to render final permit decisions based on applicable criteria. Those permit decisions may not comport with statements in this notice or prior drafts of the SAMP.

Coordination with Stakeholders: The federal agencies intend to hold meetings with stakeholders, including the Citizens Advisory Committee, to keep the stakeholders informed of the status of activities.

Schedule for Completion of SAMP/EIS

April/May 1999—Conduct public outreach on the SAMP/EIS, including Congressional briefings, constituent meetings, and public information sessions

July 15, 1999—Issue Final EIS

August 15, 1999—Close Final EIS comment period

September 15, 1999—Issue SAMP Record of Decision

July 1, 2000—HMDC completes revisions to Master Plan and zoning regulations; NJDEP submits these documents to NOAA for approval as a Coastal Management Plan revision

September 1, 2000—NOAA acts on New Jersey Coastal Management Plan revision

Dated: March 25, 1999.

Jeanne M. Fox,

Regional Administrator, EPA—Region 2.

William H. Pearce,

District Engineer, USACE—New York District.

Jane M. Kenny,

Chairperson, Hackensack Meadowlands Development Commission.

Robert C. Shinn, Jr.,

Commissioner, New Jersey Department of Environmental Protection.

Jon C. Rittgers,

Acting Regional Administrator, National Marine Fisheries Service Northeast Region.

Ralph C. Pisapia,

Acting, Regional Director, USFWS—Region 5.

Bradley M. Campbell,

Associate Director for Toxic and Environmental Protection, White House Council on Environmental Quality.

[FR Doc. 99–10094 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[WH–FRL–6330–1]

Peer Review Workshop and Public Stakeholder Meetings on the Draft Water Quality Criteria Methodology Revisions: Human Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of peer review workshop and public stakeholder meetings on revisions to the methodology for deriving ambient water quality criteria for the protection of human health.

SUMMARY: The Environmental Protection Agency (EPA) is holding a peer review workshop and subsequent public stakeholder meeting between May 17 and May 20, 1999 for the purpose of conducting an external expert peer review of the Draft Methodology Revisions and a subsequent information exchange with stakeholders on issues related to the changes or additions in the Revisions.

DATES: The peer review workshop will start at 9:00 AM on May 17 and will adjourn on May 19 at 12:00 PM. The public stakeholder meeting will start at 9:00 AM and adjourn at 5:30 PM on May 20, the day following the conclusion of the peer review workshop.

FOR FURTHER INFORMATION CONTACT: Denis Borum (4304), U.S. EPA, 401 M St. S.W., Washington, D.C. 20460 (Telephone: (202) 260–8996).

SUPPLEMENTARY INFORMATION: Both the peer review workshop and subsequent public stakeholder meeting will be held at the Hilton Springfield, 6550 Loisdale Road, Springfield, VA for the purpose of conducting an external expert peer review of the Draft Methodology Revisions and a subsequent information exchange with stakeholders on issues related to the changes or additions that, when finalized, will supersede the existing Guidelines and Methodology Used in the Preparation of Health Effect Assessment Chapters of the Consent Decree Water Criteria Documents (''1980 AWQC National Guidelines''), published by EPA in November 1980. The purpose of the peer review workshop is to have the methodology reviewed in its entirety, even though many components of it have been peer reviewed in separate efforts. This is intentionally being conducted in a public forum, so that interested persons will be able to watch and listen while the peer reviewers discuss the recommended methodology revisions and draft their peer review report. Observers at the workshop will have an opportunity during a 30-minute period set aside at the end of the first and second day to make brief statements of opinion. Observers will not be allowed to ask questions of the reviewers or engage in the discussion. Observers who wish to make any statements should provide an advance written request to Pat Wood, Versar, Inc. at (703) 750–3000. There will also be an opportunity to sign up at the Workshop (on the first day) to make comments at the end of the second day, as time allows.

The public stakeholder meeting is to provide an opportunity for interested persons to discuss the issues and process for developing criteria and implementing the methodology. The stakeholder meeting will be the opportunity for substantive input and dialogue with the primary authors of the Draft Methodology Revisions. As with the peer review workshop, participants for the stakeholders meeting who wish to make comments or ask questions are strongly encouraged to provide an advance written request due to potential time limitations. Requests to speak at the stakeholder meeting should be made to Robert Noecker, ICF, Inc. at (703)

218–2700 or by e-mail at: rnoecker@icfkaiser.com.

EPA is inviting all interested members of the public to observe the workshop and participate in the stakeholder meeting. To the extent that is available, EPA is instituting an open door policy to allow any member of the public to attend either event for any length of time. Approximately 150 seats will be available for the public. Seats will be available on a first-come, first served basis. On-site registration for both will begin at 8:00 AM.

For additional information about the meeting, please contact Denis Borum of EPA's Office of Science and Technology at (202) 260–8996 or by e-mail at borum.denis@epa.gov.

Dated: April 14, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99–10097 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6329–9]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act: Odessa Drum Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Odessa Drum Superfund Site with Alpha Intermediates, Inc.

The settlement requires the settling party to pay a total of $155,259.15 as payment of past response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to section 107 of CERCLA, 42 U.S.C. 9607.

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733.

DATES: Comments must be submitted on or before May 24, 1999.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. A copy of the proposed settlement may be obtained from Carl Bolden, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–6713. Comments should reference the Odessa Drum Superfund Site, Ector County, Texas and EPA Docket Number 6–02–99, and should be addressed to Carl Bolden at the address listed above.

FOR FURTHER INFORMATION CONTACT: Michael Boydston, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–7376.

Dated: April 13, 1999.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 99–10095 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6329–6]

Oil Pollution Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding GTE Midwest, Inc.

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding GTE Midwest, Inc.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment of an administrative penalty against GTE Midwest, Inc. Under 33 U.S.C. 1321(b)(6), EPA is authorized to issue orders assessing administrative penalties for violations of the Act. EPA may issue such orders after filing a Complaint commencing, a Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1321(b)(6)(C).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. part 22. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On March 31, 1999, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following complaint: In the Matter of GTE Midwest incorporated; EPA Docket No, VII–99–0010.

The Complaint proposes a penalty of Nineteen Thousand Seven Hundred and Thirty Dollar ($19,730) for the discharge of diesel fuel to waters of the U.S. and failure to timely prepare a Spill Prevention, Control, and Countermeasure Plan, in violation of sections 311 of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by GTE Midwest, Inc. is available as part of the administrative record subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this Document.

Dated: April 8, 1999.

Dennis Grams,

Regional Administrator, Region 7.

[FR Doc. 99–9998 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6329–7]

Oil Pollution Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding the Kansas Department of Transportation

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding the Kansas Department of Transportation.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment of an administrative penalty against the Kansas Department of Transportation Under 33 U.S.C. 1321(b)(6), EPA is authorized to issue orders assessing administrative penalties for violations of the Act. EPA may issue such orders after filing a Complaint commencing a Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1321(b)(6)(C).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On September 29, 1998, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following complaint: In the Matter of the Kansas Department of Transportation; EPA Docket No. VII–98–W–0042.

The Complaint proposed a penalty of Fifty-Eight Thousand Four Hundred Dollars ($58,400) for the discharge of emulsified asphalt to waters of the U.S. and failure to timely prepare a Spill Prevention, Control, and Counter-measure Plan, in violation of sections 311 of the Clean Water Act. EPA proposes to issue a final penalty of Twenty-Nine Thousand Dollars ($29,000).

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by the Kansas Department of Transportation is available as part of the administrative record subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this document.

Dated: April 13, 1998.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 99–9999 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6330–2]

National Recommended Water Quality Criteria; Notice; Republication; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice; correction.

SUMMARY: This document contains corrections to a notice, National Recommended Water Quality Criteria, which was published in the **Federal Register** on Thursday, December 10, 1998 (63 FR 68354).

ADDRESSES: A copy of the document, ''National Recommended Water Quality Criteria—Correction'', (EPA–822–Z–99–001) is available from the U.S. Environmental Protection Agency, National Service Center for Environmental Publications, 11029 Kenwood Road, Cincinnati, Ohio 45242, phone (513) 489–8190 or 1–800–490–9198. This document may also be viewed on the Internet at: http://www.epa.gov/ost/Standards/wqcriteria.html.

FOR FURTHER INFORMATION CONTACT: Cindy Roberts, Office of Water (4304), 401 M Street, SW, Washington, DC 20460; telephone (202) 260–2787; fax (202) 260–6098.

SUPPLEMENTARY INFORMATION: In the **Federal Register** issue, of December 10, 1998, in FR Doc. 98–30272, make the following corrections:

(1) On page 68359, footnote F, change ''CMD'' to ''CMC''.

(2) On page 68359, footnote K, change ''EPA–820–B–96–011'' to EPA–820–B–96–001''.

(3) On page 68359, footnote L, change ''CMC=1/[(f1/CMC1)=(f2/CMC2)]'' to ''CMC=1/[(f1/CMC1) + (f2/CMC2)]''.

(4) On page 68360, Non priority pollutant 3, Ammonia, remove footnote ''D'' from—SALTWATER CRITERIA ARE pH AND TEMPERATURE DEPENDENT. Add footnote ''D'' to, FRESHWATER CRITERIA ARE pH DEPENDENT—SEE DOCUMENT.

(5) On page 68360, Non priority pollutant 21, Malathion, Saltwater CCC ug/L, add ''0.1 F''.

(6) Remove all footnote ''H'' from the Non priority pollutant table.

(7) On page 68362, Pollutant 1, Acenaphthene, change CAS No. ''208968'' to ''83329''.

(8) On page 68364, Appendix A—Conversion Factors for Dissolved Metals, Conversion factor freshwater CMC, Cadmium, change ''1.38672–[(lnhardness)(0.041838)]'' to ''1.36672–[(lnhardness)(0.041838)]''.

(9) On page 68364, Appendix C—Calculation of Freshwater Ammonia Criterion, 2., after the CCC equation add the following text: ''and the highest four-day average within the 30-day period does not exceed twice the CCC''.

Dated: April 15, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99–10098 Filed 4–21–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–713]

Office of Engineering and Technology Announces Workshop for Telecommunication Certification Bodies (TCB)

AGENCY: Federal Communications Commission.

ACTION: Notice of workshop.

SUMMARY: The Office of Engineering and Technology invites interested parties to attend a workshop on April 28, 1999, from 1–5 p.m., on Telecommunication Certification Bodies (TCBs). On April 15, 1999, the Commission released a public notice announcing the workshop. The workshop will be held in conjunction with the National Institute

of Standards and Technology (NIST) workshops on the US–EC Mutual Recognition Agreement on April 27, 1999, and the workshop on the National Voluntary Conformity Assessment Systems Evaluation (NVCASE) on the morning of April 28, 1999.

SUPPLEMENTARY INFORMATION: There is no fee to attend the workshops, but parties must pre-register by providing the full names and affiliations of planned participants by April 21, so that NIST can make appropriate arrangements. Parties may pre-register by e-mail at scp@nist.gov, by fax at 301–975–5414, or by writing to: EMC/Telecom Workshop Coordinator, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2100, Gaithersburg, MD 20899–2100.

DATES: The workshop will be held in the afternoon (1–5 p.m.) on April 28, 1999.

ADDRESSES: The workshop will be held in the Department of Commerce Auditorium at 14th Street and Constitution Ave., NW, Washington, DC

FOR FURTHER INFORMATION CONTACT: Art Wall of the FCC at (301) 362–3041, fax: (301) 344–2050, email: awall@fcc.gov. or National Institute of Standards and Technology (NIST) at 301–975–5120.

Federal Communications Commission.

Dale N. Hatfield,

Chief, Office of Engineering and Technology.

[FR Doc. 99–10119 Filed 4–21–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, April 27, 1999 at 10 a.m.

PLACE: 999 E Street, NW, Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, April 29, 1999 at 10 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Combined Federal Campaign Team Recognition Ceremony.

Advisory Opinion 1999–1: (Reconsideration) Mark Greene, candidate for Congress in 2000 election cycle.

Petition for Rulemaking Filed by James Bopp, Jr., on Behalf of the Virginia Society for Human Life.

Proposed Final Rules of Treatment of Limited Liability Companies under the Federal Election Campaign Act.

Status of PricewaterhouseCoopers (Pwc) Recommendations.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 99–10259 Filed 4–20–99; 2:28 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. State Financial Services Corporation, Hales Corners, Wisconsin; to acquire 100 percent of the voting shares of First Waukegan Corporation, Waukegan, Wisconsin, and thereby indirectly acquire Bank of Northern Illinois, Waukegan, Illinois.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Clear Creek Bank Corp., Idaho Springs, Colorado; to acquire 100 percent of the voting shares of High Desert State Bank, Albuquerque, New Mexico.

2. Peoples Bank & Trust Company, Ryan, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank & Trust Company, Ryan, Oklahoma.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Bank On It, Inc., Stockton, California; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of San Joaquin, Stockton, California (in organization).

2. Belvedere Capital Partners, Inc., and California Community Financial Institutions Fund, L.P., both of San Francisco, California; to acquire at least 54.85 percent of the voting shares of Cerritos Valley Bancorp, Norwalk, California, and thereby indirectly acquire Cerritos Valley Bank, Norwalk, California.

3. Newco Alaska, Inc., Ketchikan, Alaska; to become a bank holding company by acquiring 100 percent of the voting shares of First Bancorp, Inc., Ketchikan, Alaska, and thereby indirectly acquire First Bank, Ketchikan, Alaska. Comments regarding this application must be received not later than May 6, 1999.

Board of Governors of the Federal Reserve System, April 16, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–10014 Filed 4–21–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Public Workshop: U.S. Perspectives on Consumer Protection in the Global Electronic Marketplace

AGENCY: Federal Trade Commission.

ACTION: Notice extending comment period to April 30, 1999.

SUMMARY: In connection with the Federal Trade Commission's request for public comments on U.S. perspectives on consumer protection in the global electronic marketplace announced in 63 FR 69289 (December 16, 1998), the Commission has extended the period to April 30, 1999. Public comments already submitted are posted on the Commission's Web page, at <http://www.ftc.gov/bcp/icpw/comment/index.html>.

DATES: The deadline for public comments is April 30, 1999. The dates of the workshop are June 8–9, 1999.

COMMENT SUBMISSION PROCEDURE: Written responses should be submitted to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., N.W., Washington, D.C., 20580. The Commission requests that commenters submit the original plus five copies, if feasible. To enable prompt review and accessibility to the public, responses also should be submitted, if possible, in electronic form, on either one 5¼ or one 3½ inch computer disk, with a disk label stating the name of the submitter and the name and version of the word processing program used to create the document. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII text format.) Alternatively, the Commission will accept responses submitted via the Internet to <EMarketplace@ftc.gov>. All submissions should be captioned: ''U.S. Perspectives on Consumer Protection in the Global Electronic Marketplace—Comment, P994312.''

FOR FURTHER INFORMATION: A workshop agenda and information about participation will be published closer to the date of the workshop. For questions about the workshop, contact either: Lisa Rosenthal, Legal Advisor for International Consumer Protection, Division of Planning and Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, telephone 202–326–2249, e-mail <lrosenthal@ftc.gov>; or Jonathan Smollen, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, telephone 202–326–3457, e-mail <jsmollen@ftc.gov>.

Authority: 15 U.S.C. 41 *et seq.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–10075 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTION GRANTED EARLY TERMINATION

ET date	Trans No.	ET req status	Party name
29–MAR–99	19991819	G	J.H. Whitney III, L.P.
		G	MedSource Technologies, Inc.
		G	MedSource Technologies, Inc.
	19991844	G	Terex Corporation.
		G	Amida Industries, Inc.
		G	Amida Industries, Inc., a South Carolina corporation.
	19991860	G	Stroh Companies, Inc., (The)
		G	Minott Wessinger.
		G	McKenzie River Corporation.
	19991875	G	Olivetti S.p.A.
		G	Telecom Italia S.p.A.
		G	Telecom Italia S.p.A.
	19991877	G	Olivetti S.p.A.
		G	Concentric Network Corporation.
		G	Concentric Network Corporation.
	19991951	G	American Business Products, Inc.
		G	Tekkote Corp.
		G	Tekkote Corp.
	19991955	G	Cyrus A. Ansary.
		G	National City Corporation.
		G	National Processing Company.
	19991967	G	Textron Inc.
		G	First Union Corporation.
		G	LCI Corporation International, Inc.
	19991968	G	Swiss Reinsurance Company.
		G	Royal & Sun Alliance Insurance Group plc.
		G	Royal Maccabees Life Insurance Company.
	19991973	G	RCBA Strategic Partners, L.P.
		G	HWH Capital Partners, L.P.
		G	SMC Holdings Corp.
	19991974	G	Dycom Industries, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	Ervin Cable Construction, Inc.
		G	Ervin Cable Construction, Inc.
	19991978	G	Michael Foods, Inc.
		G	John Kaneb.
		G	H.P. Hood, Inc.
	19991980	G	Kent Electronics Corporation.
		G	Vol H. Montgomery.
		G	SabreData, Inc.
	19991987	G	AGCO Corporation.
		G	Roy E. and Donice E. Applequist, husband and wife.
		G	Great Plains Manufacturing, Inc.
	19991991	G	The Manitowoc Company, Inc.
		G	Kyees Aluminum, Inc.
		G	Kyees Aluminum, Inc.
	19991992	G	Danisco A/S.
		G	Cultor Corporation.
		G	Cultor Corporation.
	19991993	G	Heritage Fund II, L.P.
		G	Avista Corp.
		G	Creative Solutions Group, Inc.
	19991995	G	Aon Corporation.
		G	Presidium Holdings, Inc.
		G	Presidium Holdings, Inc.
	19991996	G	Southcorp Limited.
		G	John C. Cushman, III & Jeanine S. Cushman (husband & wife).
		G	Cushman Winery Corporation.
	19991998	G	Electra Investment Trust PLC.
		G	Allflex USA, Inc.
		G	Allflex USA, Inc.
	19992001	G	Amgen Inc.
		G	Praecis Pharmaceuticals Incorporated.
		G	Praecis Pharmaceuticals Incorporated.
	19992002	G	AlliedSignal Inc.
		G	Johnnie Lou LaRoche.
		G	LaRoche Industries Inc.
	19992003	G	Union Carbide Corporation.
		G	Johnnie Lou LaRoche.
		G	LaRoche Industries Inc.
	19992005	G	United American Energy Corp.
		G	National Power PLC.
		G	ANP Mechlenburg Cogeneration Company.
		G	TEVCO Cogeneration Company.
	19992007	G	Philip J. D'Elia.
		G	Johnson Service Group PLC.
		G	Johnson Group, Inc.
	19992008	G	Maverick Country Stores, Inc.
		G	Tosco Corporation.
		G	Circle K Stores, Inc.
	19992011	G	Naomi C. Dempsey.
		G	Robert H. Dorst.
		G	Great Lakes Corrugated Corp.
	19992013	G	Kasper A.S.L. Ltd.
		G	Tomio Taki.
		G	Anne Klein Company LCC.
	19992026	G	Francois Pinault.
		G	Brylane Inc., a Delaware corporation.
		G	Brylane Inc., a Delaware corporation.
	19992029	G	PCMC Holdings, L.P.
		G	Plum Creek Timber Company, Inc.
		G	Plum Creek Timber Company, Inc.
	19992039	G	Burmah Castrol plc.
		G	James R. Pyne.
		G	REMET Corporation.
	19992047	G	Summit Ventures V, L.P.
		G	Paul C. Steinwachs.
		G	EMED Co., Inc.
	19992048	G	Summit Ventures V, L.P.
		G	Donald E. Steinwachs.
		G	EMED Co., Inc.
	19992054	G	Bessemer Securities LLC.
		G	The Beacon Group III—Focus Value Fund, L.P.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	Identity Group, Inc.
	19992056	G	Whole Foods Market, Inc.
		G	Leo Kahn.
		G	Nature's Heartland, Inc.
	19992070	G	Arkansas Best Corporation.
		G	Treadco, Inc.
		G	Treadco, Inc.
30–MAR–99	19991797	G	Charles M. Lillis.
		G	MediaOne Group. Inc.
		G	MediaOne Group, Inc.
	19991849	G	BellSouth Corporation.
		G	TDS Voting Trust.
		G	United States Cellular Operating Corporation.
	19991873	G	Baker Communications Fund, L.P.
		G	Ascend Communications, Inc.
		G	S2 Systems, Inc.
	19991942	G	Stewart Enterprises, Inc.
		G	F. Peter Newcomer.
		G	D.W. Newcomer's Sons, Inc. and DWN Properties, I
	19991960	G	St. Luke's Episcopal Health System.
		G	MedPartners, Inc.
		G	Caremark Inc., Caremark Resources Corporation.
	19991961	G	Methodist Health Care System.
		G	MedPartners, Inc.
		G	Caremark Inc., Caremark Resources Corporation.
	19991969	G	Bell Atlantic Corporation.
		G	Bell Atlantic Corporation.
		G	Columbia Cellular Telephone Company.
	19991994	G	National Computer Systems, Inc.
		G	Don H. Barden.
		G	NovaNet Learning, Inc.
	19991997	G	General Electric Company.
		G	iVillage, Inc.
		G	iVillage, Inc.
	19992012	G	News Corporation Limited.
		G	David E. Shaw.
		G	Juno Online Services, Inc.
	19992016	G	Deutsche Lufthansa AG.
		G	Gerald W. Schwartz.
		G	Onex Food Services, Inc.
	19992019	G	Vereniging AEGON.
		G	Transamerica Corporation.
		G	Transamerica Corporation.
	19992027	G	Larry Van Tuyl.
		G	Boomershine Automotive Group, Inc.
		G	Boomershine Ford, Inc., Bommershine Isuzu, Inc.
		G	Boomershine Colliston Centers of Gwinnett, Inc.
	19992032	G	Heating Oil Partners, L.P.
		G	Alliance Energy Corp.
		G	Alliance Energy Corp.
	19992040	G	Stichting Administratiekantoor van aandelen Koniklijk.
		G	Hagemeyer N.V.
		G	MBC Foods Inc., Fine Distributing, Inc., Direct Specialty.
	19992055	G	Paul G. Allen.
		G	Go2Net, Inc.
		G	Go2Net, Inc.
	19992079	G	Sabratek Corporation.
		G	Ralin Medical, Inc.
		G	LifeWatch, Inc.
	19992080	G	Ralin Medical, Inc.
		G	Sabratek Corporation.
		G	Sabratek Corporation.
31–MAR–99	19991793	G	World Color Press, Inc.
		G	Legg Mason Capital Partners, L.P.
		G	UP/Graphics, Inc.
	19991833	G	Health Management Associates, Inc.
		G	The Lower Florida Keys Health System, Inc.
		G	dePoo Hospital, Florida Keys Memorial Hospital.
	19991896	G	Cendant Corporation.
		G	Apollo Investment Fund III, L.P.
		G	NRT Incorporated.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
01–APR–99	19991785	G	Wilh. Werhahn.
		G	Nalco Chemical Company.
		G	Nalco Chemical Company.
	19992060	G	American Plumbing & Mechanical, Inc.
		G	David A. Croson.
		G	J.A. Croson Company.
		G	Franklin Fire Sprinkler Company.
	19992077	G	Allianz Aktiengesellschaft.
		G	Orion Captial Corporation.
		G	Wm. H. McGee & Co., Inc.
02–APR–99	19991331	G	Reilly Industries, Inc.
		G	AlliedSignal Inc.
		G	AlliedSignal Inc.
	19991850	G	Sisters of St. Francis Health Services, Inc.
		G	MedPartners, Inc.
		G	MedPartners Physician Management, L.P.
	19991894	G	Galaxy Telecom Investments, L.L.C.
		G	Tele-Communications Inc. or AT&T Corporation.
		G	Mississippi Cablevision, Inc.
	19991927	G	Regis Corporation.
		G	Florence F. Francis.
		G	The Barbers, Hairstyling for Men & Women, Inc.
	19991935	G	Aalberts Industries, N.V.
		G	Taprite-Fassco Mfg., Inc.
		G	Taprite-Fassco Mfg., Inc.
	19991945	G	General Electric Company.
		G	Sumitomo Corporation.
		G	Phoenixcor, Inc.
	19991946	G	Paul G. Allen.
		G	Morgan Stanley Capital Partners III, L.P.
		G	Renaissance Media Group LLC.
	19991970	G	GAMBRO AB.
		G	ZENECA Group PLC.
		G	Salick Health Care, Inc.
		G	Century Dialsis Corporation.
		G	USHAWL, Inc.
	19991977	G	Marshalls Finance Limited.
		G	Arthur Hughes.
		G	Fulton Prebon Group Limited.
	19991999	G	Textron Inc.
		G	Andrew K. Rayburn.
		G	Flexalloy Inc.
	19992000	G	Activated Communications Limited Partnership.
		G	E. Burke Ross, Jr., Family Trust 1.
		G	New Jersey Broadcasting Partners, L.P. II.
	19992009	G	Fenway Partners Capital Fund, L.P.
		G	Joseph F. Umosella.
		G	Patriot Manufacturing, Inc.
	19992010	G	Siemens Aktiengesellschaft (a German company).
		G	Castle Networks, Inc.
		G	Castle Networks, Inc.
	19992030	G	Palace Sports & Entertainment, Inc.
		G	Arthur L. Williams, Jr.
		G	ALW Sports Management, Inc.
		G	Tampa Bay Lightning, Limited Liability Company.
	19992041	G	ABRY Broadcast Partners II, L.P.
		G	David S. Smith.
		G	Mission Broadcasting of Wichita Falls, Inc.
	19992049	G	General Motors Corporation.
		G	John B.T. Campbell, III and Anne Catherine Campb.
		G	Campbell Automotive Group, Inc.
	19992051	G	VS&A Communications Partners II, L.P.
		G	William A. Patterson, Jr.
		G	International Travel Service, Inc.
	19992071	G	Dover Corporation.
		G	Summit Ventures IV, L.P.
		G	Somero Enterprises, Inc.
	19992075	G	Stewart Enterprises, Inc.
		G	Froedtert Memorial Lutheran Hospital Trust.
		G	Wisconsin Memorial Park, Inc.
	19992078	G	Gilead Sciences, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	NeXstar Pharmaceuticals, Inc.
		G	NeXstar Pharmaceuticals, Inc.
	19992084	G	Hoopeston Foods, Inc.
		G	Pro-Fac Corporative, Inc.
		G	Agrilink Foods, Inc.
	19992085	G	Navigant International, Inc.
		G	Vincent E. Vitti.
		G	VTS Travel Enterprises, Inc.
	19992086	G	Marketing Services Group, Inc.
		G	CMGI, Inc.
		G	CMG Direct Corporation.
	19992094	G	CoreComm Limited.
		G	USN Communications, Inc. (Debtor-in-Possession)
		G	USN Communications, Inc. (Debtor-in-Possession)
	19992098	G	Activision, Inc.
		G	Expert Software, Inc.
		G	Expert Software, Inc.
	19992099	G	ING Groep N.V.
		G	PennCorp Financial Group, Inc.
		G	UC Mortgage Corp.
		G	Marketing One, Inc.
		G	CyberLink Development, Inc.
		G	United Life & Annuity Insurance Company.
		G	United Variable Services, Inc.
	19992101	G	Hughes Supply, Inc.
		G	Flori Corporation.
		G	Flori Corporation.
	19992103	G	ACME Television Holdings, LLC.
		G	Lowell W. Paxson.
		G	Paxson Communications Corporation.
	19992120	G	EMP Group, L.L.C.
		G	American Media, Inc.
		G	American Media, Inc.
	19992121	G	Cornerstone Equity Investors IV, LP
		G	Equitrac Corporation.
		G	Equitrac Corporation.
	19992123	G	Sisters of Providence, Sacred Heart Province.
		G	Hood River Memorial Hospital.
		G	Hood River Memorial Hospital.
	19992127	G	Associated Food Store, Inc.
		G	Kenneth W. Macey and Robin A. Macey, husband and wife.
		G	Macey's Inc., Macey's-Provo, LLC, Macey's-Clearfie LLC.
	19992131	G	Vester Capital Partners III, L.P.
		G	Sheridan Healthcare, Inc.
		G	Sheridan Healthcare, Inc.
	19992134	G	Cablevision Systems Corporation.
		G	Cablevision Systems Corporation.
		G	Madison Square Garden, L.P.
	19992137	G	Catherine L. Hughes.
		G	Sinclair Telecable, Inc.
		G	WCDX–FM, Mechanicsville, Virginia.
		G	WJRV–FM Richmond, Virginia.
		G	WGCV–FM Petersburg, Virginia.
		G	WPLZ–FM Petersburg, Virginia.
04–APR–99	19992050	G	Paul G. Allen.
		G	Go2Net, Inc.
		G	Go2Net. Inc.
05–APR–99	19991957	G	UGI Corporation.
		G	Unisource Worldwide, Inc.
		G	Unisource Worldwide, Inc.
	19992042	G	General Electric Company.
		G	Value Vision International, Inc.
		G	Value Vision International, Inc.
	19992052	G	ITT Industries, an Indian corporation.
		G	Earth Watch Incorporated.
		G	Earth Watch Incorporated, a Delaware corporation.
	19992063	G	Compagnie Financiere Rupert.
		G	Caroline Arpels Daumen.
		G	Van Cleef & Arpels, Inc.
	19992064	G	Compagnie Financiere Rupert.
		G	Eric Arpels.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	Van Cleef & Arpels, Inc.
	19992092	G	EMCOR Group, Inc.
		G	Monumental Investment Corporation.
		G	Monumental Investment Corporation.
	19992106	G	L. Ross Love.
		G	Clear Channel Communications, Inc.
		G	Clear Channel Broadcasting, Inc.
		G	Jacor Broadcasting of Louisville, Inc.
	19992122	G	Anderson Corporation.
		G	Morgan Products Ltd.
		G	Morgan Products Ltd.
	19992145	G	Sovereign Specialty Chemical, L.P.
		G	The Valspar Corporation.
		G	Valsper Flexible Packaging Coatings Business.
	19992148	G	The ServiceMaster Company.
		G	American Residential Services, Inc.
		G	American Residential Services, Inc.
07–APR–99	19992014	G	PP&L Resources, Inc.
		G	Bangor Hydro-Electric Company.
		G	Bangor Hydro-Electric Company.
	19992067	G	A.M. Todd Group, Inc.
		G	William H. and Margaret E. Brevoort.
		G	East Earth Herb, Inc.
	19992144	G	Kerr-McGee Corporation.
		G	Kerr-McGee Corporation.
		G	Sun Energy Partners, L.P.
08–APR–99	19991072	G	Reed International P.L.C.
		G	Benjamin and Ann Lewin.
		G	Cell Press, Inc.
	19991073	G	Elsevier NV.
		G	Benjamin and Ann Lewin.
		G	Cell Press, Inc.
09–APR–99	19990666	G	Allied Waste Industries, Inc.
		G	Browning Ferris Industries, Inc.
		G	BFI Waste Systems of North America, Inc.
	19990667	G	Browning Ferris Industries, Inc.
		G	Allied Waste Industries, Inc.
		G	Allied Waste Industries, Inc.
	19991644	G	Chart Industries, Inc.
		G	MVE Investors, LLC.
		G	MVE Investors, LLC.
	19991964	G	Reed International P.L.C.
		G	Benjamin and Ann Lewin.
		G	Cell Press, Inc.
	19991965	G	Elsevier NV.
		G	Benjamin and Ann Lewin.
		G	Cell Press, Inc.
	19991984	G	First Union Corporation.
		G	Fred Thomas Tattersall,
		G	Tattersall Advisory Group, Inc.
	19992017	G	British Telecommunications plc.
		G	Corporation Impsa S.A.
		G	IMPSAT Corporation.
	19992036	G	TRW Inc.
		G	Safeguard Scientifics, Inc.
		G	ClientLink, Inc.
	19992045	G	Chase Manhattan Corporation, (The).
		G	Mark Eric and Patricia A. Benjamin, (husband and wife).
		G	Benjamin Metals Company.
	19992081	G	Western Wireless Corporation.
		G	Century Telephone Enterprises, Inc.
		G	Brownsville Cellular Telephone Company, Inc.
		G	McAllen Cellular Telephone Co., Inc.
	19992093	G	Windward Capital Partners II, L.P.
		G	Bayer AG.
		G	Bayer Inc., a Canadian corporation.
	19992130	G	Vincent Camuto.
		G	Jones Apparel Group, Inc.
		G	Jones Apparel Group, Inc.
	19992141	G	Wind Point Partners III, L.P.
		G	MascoTech, Inc.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	BLD Products, Ltd.
		G	Pylon Manufacturing Corp.
		G	Novo Products, Inc.
		G	Hebco Products, Inc.
		G	International Brake Industries, Inc.
		G	Longman Enterprises, Inc.
		G	Mr. Bracket, Inc.
		G	McGuane Industries, Inc.
	19992142	G	MCN Energy Group Inc.
		G	SEMCO Energy, Inc.
		G	SEMCO Energy Services, Inc.
	19992147	G	Foster & Gallagher, Inc.
		G	Donald L. Kruml
		G	Gurney Seed & Nursery Corp.
	19992149	G	Mistral International Finance A.G.
		G	Wangner Finckh GmbH.
		G	Wangner Systems Corporation.
	19992150	G	Enron Corp.
		G	Philip Services Corp.
		G	Philip Utilities Management Corporation.
	19992155	G	Cowles Publishing Company.
		G	Raycom Media, Inc.
		G	Federal Broadcasting Company.
	19992156	G	Public Service Enterprise Group Inc.
		G	The Frank A. McBride Company.
		G	The Frank A. McBride Company.
	19992164	G	WD–40 Company.
		G	Block Drug Company, Inc.
		G	Block Drug Company, Inc.
	19992165	G	ZENECA Group PLC.
		G	Cima Labs, Inc.
		G	Cima Labs, Inc.
	19992170	G	Alain Merieux.
		G	Silliker bioMerieux, Inc.
		G	Silliker bioMerieux, Inc.
	19992172	G	Marlin Water Trust.
		G	Philip Services Corp.
		G	Philip Utilities Management Corporation.
	19992174	G	Rollins, Inc.
		G	H.F. Johnson Distributing Trust f/b/o Samuel C. Johnson.
		G	S.C. Johnson Commercial Markets, Inc.
		G	PRISM Integrated Sanitation Management, Inc.
	19992178	G	MEDIQ Incorporated.
		G	HTD Corporation.
		G	HTD Corporation.
	19992181	G	Group 1 Automotive, Inc.
		G	Frederick A. Nagher.
		G	Rodeo Chrysler-Pymouth, Inc.
	19992183	G	Apollo Investment Fund IV, L.P.
		G	Building One Services Corporation.
		G	Building One Services Corporation.
	19992186	G	KPMG LLP.
		G	Softline Consulting & Integrators, Inc.
		G	Softline Consulting & Integrators, Inc.
	19992192	G	Gerald W. Schwartz.
		G	Windward Capital Associates, L.P.
		G	J.L. French Automotive Castings, Inc.
	19992195	G	The National Grid Group plc.
		G	New England Electric System.
		G	New England Electric System.
	19992206	G	SCI Systems, Inc.
		G	Hewlett-Packard Company.
		G	VeriFone Electronics Co. Ltd.
	19992207	G	Swedish Match AB (publ).
		G	General Cigar Holdings, Inc.
		G	General Cigar Co., Inc.
	19992222	G	NORPAC Foods, Inc.
		G	Agripac, Inc.
		G	Agripac, Inc.
	19992223	G	Ogden Corporation.
		G	Dawson Consolidated Holdings Limited.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
		G	Southbrook Corporation.
	19992244	G	IXC Communications, Inc.
		G	Riva Bursten 1994 Trust u/a/d September 19, 1994.
		G	Coastal Telephone Services Limited Company.
		G	Coastal Telecom Limited Company.
		G	Coastal Telecom Limited Liability Company (Tennessee).
		G	Coastal Telecom Limited Liability Company (Wisconsin).
	19992245	Y	IXC Communications, Inc.
		Y	Andrew M. Bursten 1994 Trust u/a/d September 19, 1994.
		Y	Coastal Telephone Services Limited Company.
		Y	Coastal Telecom Limited Liability Company (Wisconsin).
		Y	Coastal Telecom Limited Company.
		Y	Coastal Telecom Limited Liability Company (Tennessee).
	19992253	G	Gerald F. Bean.
		G	Republic Industries, Inc.
		G	Kendall Imports, LLC and G.F.B. Enterprises, LLC.

For Further Information Contact: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–10074 Filed 4–21–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

ICD–9–CM Coordination and Maintenance Committee Meeting

National Center for Health Statistics (NCHS), Data Policy and Standards Staff, announces the following meeting.

Name: ICD–9–CM Coordination and Maintenance Committee meeting.

Time and Date: 9 a.m.–4 p.m., May 13, 1999.

Place: The Health Care Financing Administration, Auditorium, 7500 Security Boulevard, Baltimore, Maryland.

Status: Open to the public.

Purpose: The ICD–9–CM Coordination and Maintenance (C&M) Committee will hold its first meeting of the 1999 cycle on Thursday, May 13, 1999. The C&M meeting is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Ninth-Revision, Clinical Modification.

Matters to be discussed: Agenda items include: adverse effects of Viagra; allergy status; loss of height; foot ulcers; external cause codes for rollerblading/skateboarding; acquired absence of organ; infertility versus sterility; update on the ICD–10–PCS; insertion of implantable loop recorder; transurethral microwave therapy and Addenda.

Contact Person for Additional Information: Amy Blum, Medical Classification Specialist, Data Policy and Standards Staff, NCHS, 6526 Belcrest Road, Room 1100, Hyattsville, Maryland 20782, telephone 301/436–7050 ext. 164 (diagnosis), Amy Gruber, Health Insurance Specialist, Division of Acute Care, HCFA, 7500 Security Blvd., Room C4–07–07, Baltimore, Maryland, 21244 telephone 410–786–1542 (procedures).

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and thee Agency for Toxic Substances and Disease Registry.

Dated: April 16, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–10080 Filed 4–21–99; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–0925]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2,2-dibromo-3-nitrilopropionamide as a preservative for adhesives and coatings used in the manufacture of paper and paperboard intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5)(21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 9B4641) has been filed by The Dow Chemical Co., Midland, MI 48674. The petition proposes to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) and § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of 2,2-dibromo-3-nitrilopropionamide as a preservative for adhesives and for coatings in the manufacture of paper and paperboard intended for contact with food.

The agency has determined under 21 CFR 25.32(q) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 7, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10009 Filed 4–21–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Conducting Successful Clinical Trials Under Good Clinical Practice Regulations to Facilitate the Product Approval Process; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of workshop.

The Food and Drug Administration (FDA), Los Angeles District Office, in cooperation with the Southern California Pharmaceutical Discussion Group (SCPDG) and the Association of Clinical Research Professionals, is announcing a workshop intended to give clinical investigators and clinical research staff an opportunity to learn and discuss requirements and expectations for clinical research intended to support new product applications to FDA.

Date and Time: See Table 1 following the ''*Location*'' section of this document.

Location: See Table 1 below.

TABLE 1.

Meeting Address	Date and Local Time	FDA Contact Person
SAN DIEGO: Marriott Mission Valley Inn, 8757 Rio San Diego Dr., San Diego, CA, 619–692–3800	Monday, May 10, 1999, 8 a.m. to 5:30 p.m.	Sandi R. Velez
LOS ANGELES: Westin Bonaventure Hotel, 404 South Figueroa St., Los Angeles, CA, 213–624–1000	Wednesday, May 12, 1999, 8 a.m. to 5:30 p.m.	Do.
TUSCON: Plaza Hotel and Conference Center, 1900 East Speedway Blvd., Tucson, AZ, 520–327–7341	Friday, May 14, 1999, 8 a.m. to 5:30 p.m.	Do.

Contact: Sandi R. Velez, Los Angeles District Office, Office of the District Director (HFR–PA200), 19900 MacArthur Blvd., Irvine, CA 92612–2445, 949–798–7698, FAX 949–798–7715.

Registration: Space is limited. Preregistration and confirmation are required by April 28, 1999. Registration forms may be obtained from the contact listed previously. There is a $150 registration fee payable to SCPDG. The registration fee and form should be sent to Eileen Ohlander at 2525 Dupont Dr., RD–3C, Irvine, CA 92613, FAX 714–246–6220. The registration fee will cover actual expenses including refreshments, lunch, materials, and some speaker expenses. Parking fees are not included in the registration fee. Walk-ins will be accepted, provided space is available. Walk-in registration for each workshop is scheduled between 7:30 a.m. and 8 a.m. on the morning of each workshop.

If you need special accommodations due to a disability, please contact Sandi R. Velez at least 7 days in advance.

Dated: April 16, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10012 Filed 4–21–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pharmacy Compounding Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pharmacy Compounding Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 6 and 7, 1999, 8:30 a.m. to 5 p.m.

Location: CDER Advisory Committee Conference Room 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Igor Cerny, or Tony Slater, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or by e-mail at CERNY@CDER.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12440. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss and provide FDA with advice about the agency's development and publication of a list of bulk drug substances that may be used in pharmacy compounding that do not have a United States Pharmacopeia or National Formulary monograph and are not components of FDA-approved drugs. Specifically, the committee is likely to address the following drug substances as candidates for the bulk drugs list: 4-aminopyridine, 3,4-diaminopyridine, betahistine dihydrochloride, chloramine-T, cyclandelate, dinitrochlorobenzene, diphenylcyclopropenone, hydrazine sulfate, mild silver protein, monosodium asparate, pentylenetetrazole, peruvian balsam, and squaric acid dibutyl ester.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 23, 1999. Oral presentations from the public will be scheduled between approximately 10:30 a.m. to 11 a.m. for dinitrochlorobenzene, diphenylcyclopropenone, and squaric acid dibutyl ester, and between approximately 2:45 p.m. and 3:15 p.m. for 4-aminopyridine, 3,4-diaminopyridine, and betahistine dihydrochloride on May 6, 1999; and between approximately 10:15 a.m. and 10:45 a.m. for mild silver protein, cyclandelate, and monosodium asparate, and between approximately

2:45 p.m. and 3:15 p.m. for hydrazine sulfate on May 7, 1999. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 23, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 16, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–10076 Filed 4–19–99; 11:05 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–1266]

Draft Guidance for Industry on Placing the Therapeutic Equivalence Code on Prescription Drug Labels and Labeling; Availability; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until June 21, 1999, the comment period for the draft guidance for industry entitled ''Placing the Therapeutic Equivalence Code on Prescription Drug Labels and Labeling'' that appeared in the **Federal Register** of January 28, 1999 (64 FR 4434). FDA is taking this action in response to several requests for an extension and to allow interested parties additional time to submit comments.

DATES: Written comments may be submitted by June 21, 1999. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of the draft guidance for industry are available on the Internet at ''http://www.fda.gov/cder/guidance/index.htm''. Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jerry Phillips, Center for Drug Evaluation and Research (HFD–730), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3225.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 28, 1999, FDA published a notice announcing the availability of a draft guidance for industry entitled ''Placing the Therapeutic Equivalence Code on Prescription Drug Labels and Labeling.'' The draft guidance is intended to clarify for prescription drug manufacturers, relabelers, and distributors FDA's position regarding placing the therapeutic equivalence code on approved FDA product labels and labeling. The January 28, 1999, notice invited interested persons to submit written comments on the draft guidance within 60 days.

The agency has received several requests to extend the comment period on the draft guidance. The agency has decided to reopen the comment period on the draft guidance until June 21, 1999, to allow the public more time to review and comment on its contents.

Interested persons may, on or before June 21, 1999, submit to the Dockets Management Branch (address above) written comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 15, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10010 Filed 4–21–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Approaches to Clinical Trials Informatics.

Date: April 19, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6130 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Wilna A. Woods, PHD, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockville, MD 20852, (301) 496–7903.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10057 Filed 4–21–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Director's Consumer Liaison Group, April 19, 1999, 9:00 AM to April 29, 1999, 5:00 PM, Natcher Building, Conference Room B, 45 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on April 13, 1999, 64 FR 18036.

The meeting will be held from April 19, 1999, 8:30 AM to April 20, 1999,

5:00 PM. The meeting is partially closed to the public, as previously announced.

Dated: April 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10058 Filed 4–21–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Clinical Centers for Feasibility Studies on Retinoid Treatment in Emphysema.

Date: May 12, 1999.

Time: 8:00 AM to 1:00 PM.

Agenda: To review and evaluate contract proposals.

Place: HOLIDAY INN—GEORGETOWN, WASHINGTON, DC 20007.

Contact Person: Anne P. Clark, PHD, Scientific Review Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Clinical Coordinating Center for Feasibility Studies on Retinoid.

Date: May 12, 1999.

Time: 1:00 PM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: HOLIDAY INN—GEORGETOWN, WASHINGTON, DC 20007.

Contact Person: Anne P. Clark, PHD, Scientific Review Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10059 Filed 4–21–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Asthma in Puerto Rican children.

Date: May 11, 1999.

Time: 2:00 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Anne P. Clark, PHD, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280.

(Catalog of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Disease Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 15, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–10060 Filed 4–21–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Availability of Funding for Alternative Projects, Known as Wilson/Fish Projects, to Implement Alternative Means of Providing Interim Financial Assistance, Medical Assistance, Social Services, and Case Management to Refugees and Cuban and Haitian Entrants

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Request for applications for alternative projects for the provision of refugee employment and other social services, interim financial and medical assistance, and case management for newly arriving and other eligible refugees. This notice replaces the notice published in the **Federal Register** of March 27, 1995 (60 FR 15766).

SUMMARY: The Office of Refugee Resettlement (ORR) announces that competing applications will be accepted from public and private non-profit organizations under a standing announcement for Wilson/Fish projects which propose alternative approaches to serving refugees. The purpose of an alternative project is to provide integrated services and cash assistance to refugees in order to increase refugees' prospects for early employment and self-sufficiency, reduce their level of welfare dependence, enhance acculturation, and promote coordination among voluntary resettlement agencies and service providers.

Projects will be accepted under either of two categories: (1) Projects to establish or maintain a refugee program in a State where the State is not participating in the refugee program or is dropping out of the refugee program or a portion of the program; and (2) projects to provide an alternative to the existing system of assistance and services to refugees.

Funding is available to these projects under the ''Wilson/Fish'' authority.

DATES: This is a standing announcement applicable from the date of publication until canceled or modified by the Director of the Office of Refugee Resettlement. The Director will observe the following closing dates for applications: October 31 and March 31 of each year. The applicant has the option to select the preferred review cycle. Under Category One, if a State withdraws from the program, the Director may review an application

outside of the proposed review cycle, if necessary.

FOR FURTHER INFORMATION CONTACT: Barbara R. Chesnik, Team Leader, Office of Refugee Resettlement, telephone (202) 401–4558, or e-mail: *bchesnik@acf.dhhs.gov*. You may address correspondence as follows: Administration for Children and Families (ACF), ORR/Division of Refugee Self-Sufficiency, 370 L'Enfant Promenade, SW, 6th Floor, Washington, DC 20447.

SUPPLEMENTARY INFORMATION:

The Office of Refugee Resettlement (ORR) is issuing this announcement for applications in two categories: (1) Projects to establish or maintain a refugee program in a State where the State does not fully participate in the refugee program; and (2) projects to provide an alternative to the existing system of assistance and services to refugees.

Category One of this announcement provides an opportunity for interested applicant(s) to continue the provision of refugee program services and assistance, including refugee cash and medical assistance, employment and other social services, targeted assistance, and preventive health services, in a State when the State elects to discontinue participation in the program or is not currently participating in the program. This category may also be used when a State elects to cease participation in all of the above components except for medical assistance and preventive health and where the Director, ORR, believes that continued resettlement in that State is in the best interests of the government and of refugees. A consortium of voluntary agencies, a lead voluntary agency, or another public or private non-profit agency may apply to administer and provide services and assistance to refugees in the State or local geographic area.

Category Two provides interested applicants an opportunity to implement alternative projects to promote refugee self-sufficiency, for example, (1) Where assistance and services for refugees receiving refugee cash assistance (RCA) and those receiving Temporary Assistance for Needy Families (TANF) could be provided in a better coordinated, effective, and efficient manner; (2) where TANF eligible refugees may not have access to timely, culturally and linguistically compatible services or employment and training programs; (3) where the regulatory options for delivery of services and assistance to refugees do not present the best resettlement in that location and resettlement could be made more effective through the implementation of an alternative project; (4) where refugees, particularly in two-parent families, are in danger of becoming dependent upon welfare and using the full time period of assistance allowed under the TANF program in a State, thereby removing the ability of the family to access TANF as a safety net in the future, if needed; (5) where the continuity of services from the time of arrival until the attainment of self-sufficiency needs to be strengthened, or (6) where it is in the best interest of refugees to be resettled outside the welfare system. Under this category, applicants have considerable latitude to propose an alternative model for resettlement in a geographic area.

Applicants are expected to propose, at a minimum, a range of services and financial assistance generally comparable to those currently available to eligible refugees in the State. Applicants in Category One may propose to transfer and serve in the Wilson/Fish project the clients who have not completed their period of eligibility under the existing RCA program. Applicants in Category Two must propose an alternative project for refugees in one or more geographic areas and cover, at a minimum, all newly arriving refugees in a geographic area of the cash assistance type proposed, e.g., all refugees otherwise eligible for RCA and/or TANF (sometimes referred to as ''RCA-type'' or ''TANF-type'' refugees). We would not expect projects in either category to propose transferring to the Wilson/Fish project refugees who are already enrolled in the TANF program.

Services and assistance under these awards are intended to help refugees attain self-sufficiency within the period of support defined by 45 CFR 400.211. This period is currently 8 months after arrival. We expect that most projects funded will provide services and assistance to refugees for this period of time, as needed.

Wilson/Fish projects will no longer be required to be budget neutral. For further discussion, please see the section on funding availability of this announcement.

ORR will entertain proposals, subject to the availability of appropriated funds, to provide interim cash support to refugees who would otherwise be eligible for the Temporary Assistance for Needy Families (TANF) program, in addition to those refugees who would otherwise be eligible for the Refugee Cash Assistance (RCA) program.

Consistent with section 412(e)(7)(B) of the Immigration and Nationality Act (INA), refugees in projects funded under this announcement will be precluded from receiving cash assistance under the TANF program or the RCA program during the period of support provided under the Wilson/Fish project. If alternative medical assistance is included, participants will be precluded from receiving RMA or Medicaid during the period of support provided under the Wilson/Fish project.

Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

ORR encourages prospective applicants to consult with ORR while developing the application.

This Program Announcement consists of four parts:

Part I: Background—Program Purpose, Legislative Authority, Funding Availability, CFDA Number, Project and Budget Periods, Definition of Terms.

Part II: Wilson/Fish Program—Eligible Applicants, Purpose and Objectives, Use of Funds, Review Criteria.

Part III: The Review Process—Intergovernmental Review, Initial ORR Screening, Competitive Review.

Part IV: The Application—Application Development, Guidelines for Preparing a Project Description, Application Submission, Paperwork Reduction and Reporting.

Part I. Background

Program Purpose

Consistent with the legislative mandate provided in the Refugee Act of 1980, ORR program regulations define the parameters for resettlement services and assistance which we believe provide the best overall approach for assisting refugees to resettle and become self-sufficient. However, we acknowledge, as did Congress in passing the Wilson/Fish legislation, that opportunities should be available to public and private non-profit organizations to design different approaches to serving refugees in a particular geographic area. Since passage of the Wilson/Fish legislation in 1985, ORR has funded seven projects under a previous version of this announcement: Two public/private projects; two projects where a State discontinued participation in the program; two privately-administered projects; and one State-administered program.

The purpose of the announcement is to enable applicants to implement alternative projects under one of two categories in order to provide interim financial assistance, social services and case management to refugees in a

manner that encourages self-sufficiency, reduces the likelihood of welfare dependency, speeds acculturation, and/or fosters greater coordination among resettlement agencies and services providers in a community. We are interested in projects which optimize all available resources—from the Federal government, the State, and the community—to make the resettlement period as beneficial as possible. An integrated system of assistance and services is considered an essential characteristic of a Wilson/Fish project.

Although ORR has included the provision of medical assistance as an allowable activity under this announcement, we strongly believe that the best medical assistance option available in almost all circumstances is the existing State-administered program of refugee medical assistance or Medicaid. However, the option to provide medical assistance under this announcement would be available under two circumstances: (a) Primarily for Category One projects where a State chooses to discontinue participation in all areas of the refugee program, including the provision of refugee medical assistance; and (b) under Category Two, in the event that there are significant problems in the provision of medical assistance to refugees in a State and where an alternative private medical assistance plan or provider is available which is able to provide a better and a more timely range of services for refugees and at an affordable cost.

In the case where an alternative medical assistance system is approved, refugee participants would not be permitted to receive Medicaid or RMA during the period of support provided under the Wilson/Fish project because they would be receiving comparable medical assistance.

Legislative Authority

In October, 1984, Congress amended the Immigration and Nationality Act to provide authority for the Secretary of Health and Human Services to implement alternative projects for refugees. This provision, known as the Wilson/Fish Amendment, (Pub. L. 98–473), provided:

> (7)(A) The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.
>
> (B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act.
>
> * * * * *
>
> (D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under section 414(a) of this Act, part A of title IV of the Social Security Act, or title XIX of such Act, may be used for the purpose of implementing and evaluating alternative projects under this paragraph.

Funding Availability

ORR will consider the requests for funding based on the merits of the proposals. Requests do not have to be limited to the amount being spent for current assistance and services, but that amount will be one of the measures used in considering the reasonableness of the request. Because projects proposed under this announcement will be alternatives to an existing program in a State or community, the expected range for funding applications and total funding level to be awarded per year is not a relevant measure for applicants. Historically, ORR has received fewer than three applications per year under preceding versions of this announcement.

In previous years, ORR applied a test of cost-neutrality to Wilson/Fish projects by limiting the amount of funds that could be awarded to grantees to the level of funds the project's target population would otherwise have received during the same budget and project periods. This concept of cost-neutrality, however, is not required by statute. The legislative history to the Wilson/Fish Amendment demonstrates Congressional intent that the amendment be budget neutral, meaning that no additional funds were provided by Congress to implement the amendment. See 130 Cong. Rec. 28,363 (October 2, 1984) (statements of Sen. Wilson, Sen. Weicker, Sen. Proxmire). Wilson/Fish projects no longer need to be cost neutral. ORR will entertain proposals, subject to the availability of appropriated funds, to provide financial assistance to TANF-type refugees in addition to RCA-type refugees.

Interim cash and medical assistance under the Wilson/Fish program will be provided from funds appropriated under the Transitional Assistance and Medical Services (TAMS) line item. Funds for services under the Wilson/Fish program will be provided through the State's share of social services formula funds applicable to the population proposed. If the program needs for services are in excess of the formula social services funds available in an area, ORR will consider the provision of supplementary discretionary funds to meet the funding level proposed in the application, if the funds are available and if the applicant has adequately demonstrated the need for such funding.

Applicants are encouraged to cover all or a portion of the costs of interim financial support in this program for TANF-eligible refugees by either seeking a relevant portion of State and Federal TANF funds from the State TANF agency, or seeking State-only funds which may be counted under certain circumstances toward the State's maintenance of effort (MOE) requirement. Those refugees supported by Federal or State TANF funds would be subject to TANF participation and work requirements, while refugees supported with State-only funds would not be subject to TANF rules.

Definition of Terms

Interim Financial Support: To provide financial assistance adequate to meet the basic needs of refugees otherwise eligible for RCA and/or for TANF at a level generally comparable to assistance allowable under those programs. The greater part of this assistance is expected to be provided in the form of cash payments to refugees, but may also include incentive bonuses for early employment or payment for work-related expenses such as transportation or tools.

Eligible population: In addition to persons who meet all requirements of 45 CFR 400.43, ''Requirements for documentation of refugee status'', eligibility for refugee program services and assistance also includes: (1) Cuban and Haitian entrants under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422; (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Program Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513). For convenience, the term ''refugee'' is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

CFDA Number: 93.583

Part II. The Wilson/Fish Program

Eligible Applicants

Eligible applicants include public and private non-profit organizations, such as States, private voluntary resettlement agencies, a consortium of agencies, local government entities, refugee mutual assistance associations, and community-based organizations.

Because a Wilson/Fish project will have a potential impact on a State's or locality's budgetary needs for cash assistance and/or medical assistance, as well as social services, a non-State applicant is encouraged to coordinate its activities with the State Refugee Coordinator in the development and implementation of such an alternative project under Category Two of this announcement. State applicants should also coordinate their proposed activities with other participants in refugee resettlement such as voluntary resettlement agencies, service providers, mutual assistance associations, and local agencies, if applicable.

Project and Budget Periods

This announcement is inviting applications for project periods up to four years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for four years. Applications for non-competing continuation grants funded under these awards beyond the one-year budget period but within the four year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the government.

Income generated from activities funded under this program shall be added to the funds committed to the project, although ORR does not expect that such income will be generated.

Part III: The Review Process

A. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State territory participation in the Intergovernmental Review Process does not signify applicant eligibility for Financial assistance under a program. a potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its single point of contact (SPOC), if applicable, or to ACF.

As of November 20, 1998, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372:

Alabama, Alaska, American Samoa, Colorado, Connecticut, Kansas Hawaii, Idaho, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility criteria of the program may still apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Attn: Grants Officer, 370 L'Enfant Promenade, SW., Sixth Floor-East, Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included with the application materials for this program announcement.

B. Initial ORR Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the applicable closing date and submitted in accordance with the instructions in this announcement; and (2) the applicant is an eligible public or private non-profit agency, and therefore eligible for funding. ORR will return to the applicant those applications which are found not eligible or incomplete.

C. Competitive Review and Evaluation Criteria

Applications which pass the initial ORR screening will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement. Proposed projects will be reviewed using the following evaluation criteria:

1. Objectives, Need for Assistance, and Rationale for Proposing the Alternative Project

The improvements proposed to be implemented by the project are based on a thorough review and description of the current resettlement system in the geographic area to be covered, in terms of the services and assistance available; the ability of refugees to access culturally and linguistically appropriate services; the employment outcomes achieved (types of jobs currently available and length of time after arrival required to obtain these jobs); and the post-employment services available. Points: 20

2. Results, Benefits Expected, and Proposed Outcomes

The proposed project is capable of achieving the stated results. The outcomes proposed are reasonable, and the methodology for collecting outcome and other data are clearly described and adequate. Points: 15

3. Approach/Program Strategy

The proposed project design is clear, logical, complete and reasonable in terms of (a) the proposed strategies related to the target population, the

geographic area to be covered, the adequacy of the system, the policies and administration of interim cash support; (b) the likelihood that the relationship between the interim support and services described will result in a program which delivers quality resettlement; and (c) the adequacy of the policies and procedures for appeals and fair hearings. The application has included adequate evidence of consultation with other relevant agencies and actors, e.g., the State Coordinator in a non-State application and the voluntary agencies and refugee service providers in a State application. Points: 25

4. Organization

The organization as described has the capacity and resources for effective administration and management of the project. The project staff are qualified and have the necessary expertise to manage the project and to deliver bilingual and bicultural services and assistance to refugees in the manner described. The applicant has described a system for monitoring and reporting that is attainable and adequate considering the organizational capacity and resources described. Points: 15

5. Budget and Budget Justification

The budget is clear, logical, complete, and reasonable in relation to the expected activities and outcomes. The line-item budget narrative is understandable and adequately justifies the costs proposed. The data provided to justify the budget are consistently and logically presented in terms of the population to be served. Points: 25

Part IV. The Application

Project Description

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

The Director reserves the right to award more or less than the funds requested depending upon the quality of the applications, or such other circumstances as may be deemed to be in the best interest of the Government. Applicants may be required to reduce the scope of selected projects to accommodate the amount of the approved grant awards.

Applicants shall prepare the project description statement in accordance with the following instructions.

1. Project Summary/Abstract

Provide a summary of the project description with reference to the funding request.

2. Objective and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other improvements to the current resettlement situation which you are proposing to make. The need for assistance must be demonstrated and the objectives of the project must be clearly stated; supporting documentation, such as letters of support from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

ORR is particularly interested in the following:

a. A clear description of the improvements to be made by the alternative strategy, stated in terms of population to be served, assistance and services to be provided, and outcomes to be achieved.

b. A description of the planning and preparation for the project, including the primary participants involved in planning for this project and those institutions and organizations consulted, such as refugee mutual assistance associations, local community services agencies, national voluntary organizations, and other agencies that serve refugees.

3. Results or Benefits Expected

Identify the results and benefits to be derived. For example, describe the proposed program outcomes in terms of appropriate indicators, including proposed outcomes using the Government Performance and Results (GPRA) measures currently in use in the refugee resettlement program (e.g., the number of employable refugees in the caseload, the number of entered employments, the number of cash assistance reductions due to employment, the number of cash assistance terminations due to employment, the average hourly wage at entered employment, the number of 90-day employment retentions, and the number of entered employments with health benefits available). Identify other benefits refugees will realize as a result of the Wilson/Fish project, including enhanced acculturation and other social adjustment measures.

Describe how and what data will be collected and how this data will be used to analyze project results. Describe the plan and schedule for project monitoring.

4. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

ORR is particularly interested in the following:

a. Describe the target population (numbers, ethnicity, and other characteristics such as age, family composition, ability to speak English, and labor skills); and the targeted populations by the anticipated category of public assistance for which the population may otherwise be eligible.

b. Describe the proposed management plan indicating who has fiscal and programmatic responsibility for the overall project and for individual components. Identify the organizational structure and include a staffing pattern and key position descriptions. Briefly discuss experience of organization(s) and staff in providing services and assistance to refugees, including the capacity to provide bilingually and biculturally appropriate services. Sources and allocation of funds for

administration and staffing should be detailed and clearly shown for each position and activity.

c. Describe the proposed services and how they will be provided, e.g., employment and case management services.

d. Describe the proposed system for providing cash support, including: (i) The income standards for cash assistance eligibility; (ii) payment levels to be used to provide cash assistance to eligible refugees; (iii) assurance that the payment levels established are not lower than the State TANF amount; (iv) a detailed description of how benefit payments will be structured, including the employment incentives and/or income disregards to be used, if any; (v) a description of how refugees residing within the project area will have appropriate access to cash assistance and services; (vi) a description of the eligibility criteria; (vii) a description of provisions for sanctions for non-cooperation as required by section 412(e)(2) of the INA; (viii) a description of the procedures to be used to ensure appropriate protections and due process for refugees, such as notice of adverse action and the right to mediation, a predetermination hearing, and an appeal to an independent entity; and (ix) a description of the procedures to be used to safeguard the disclosure of information on refugee clients.

e. Describe the proposed system for providing medical assistance, if applicable, including: (a) The type and range of services to be made available (e.g., physician, inpatient, prescription, surgical, emergency, dental, etc.); (b) a comparison of the system and range of medical services proposed to the currently available Medicaid system and services; (c) the type of provider proposed and history of the proposed provider, especially in providing services to low-income and ethnically diverse communities; (d) a description of how refugees, especially those who do not speak English or who have limited English skills, will have equal, easy, and timely access to medical assistance; (e) variables which will affect the cost of this assistance. Include a comparison of current costs with proposed costs. A description of the constitutionally required due process procedures described in d(viii), above, must also be included for medical assistance alternative projects.

f. Assurances that the written policies of the alternative project will be made available to refugee clients, including agency eligibility standards, duration and amount of cash assistance payments and medical assistance (if applicable), the requirements for participation in services, the penalties for non-cooperation, and client rights and responsibilities to ensure that refugees understand what they are eligible for, what is expected of them, and what protections are available to them. Assurance that agency policy materials will be made available to refugee clients in English and in their own language.

g. Discuss how all activities of the project will be coordinated among resettlement agencies and service providers in the community, and how refugees will have access to other programs in the community, such as the Children's Health Insurance Program (CHIP), child care services, and other support programs for working families and individuals.

5. Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

6. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form, e.g., cash assistance, employment and other services, case management, and administrative costs by program activity. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

ORR is also interested in the following:

1. A client loading chart showing the anticipated arrival of clients over the budget period and the projected interim assistance (and medical assistance, if applicable) needed on a monthly basis throughout the year to assist those refugees. Provide assumptions about the length of time clients are expected to need that assistance.

Identify administrative costs required for the provision of interim cash assistance and for services separately from those costs projected as part of the overall role of coordinating the refugee program in the geographic area.

2. The amount and source of any additional funding, including in-kind contributions, that will help support the project.

3. If the provision of medical assistance is proposed, provide a detailed budget and a narrative concerning the underlying assumptions used in developing the budget, such as the system for co-payments and the proposed amounts of co-payments, if applicable, and other variables such as deductibles, premium amounts, prescription costs, if separate.

7. Additional Information

The following is a description of additional information that should be placed in the appendix to the application.

A. Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

B. Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail the scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

V. Application Submission

1. Mailed applications postmarked after the closing date will be classified as late.

2. Deadline. Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ORR in time for the independent review to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Attention: Shirley B. Parker, Grants Officer, 370 L'Enfant Promenade, SW, Sixth Floor—East, Washington, D.C. 20447.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications hand-carried by applicants, applicant couriers, or by

other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, ACF Mailroom, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: Shirley B. Parker, ORR Grants Officer''. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ORR cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

3. Late applications. Applications which do not meet the criteria above are considered late applications. ORR shall notify each late applicant that its application will not be considered in the current competition.

4. Extension of deadlines. ORR may extend an application deadline when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there is widespread disruption of the mail service, or in other rare cases. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

Applicable Regulations

Applicable HHS regulations can be found at 45 CFR part 74 or part 92.

Reporting Requirements

Grantees are required to file the Financial Status Report (SF–269) and the Program Progress Reports on a quarterly basis. Funds issued under these awards must be accounted for and reported upon separately from all other grant activities. A final Financial Status Report and Program Progress Report shall be due 90 days after the project period end date.

Grantees must maintain adequate records to track and report on project outcomes and expenditures by budget line item.

The official receipt point for the original of all reports and correspondence is the ORR Grants Officer. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period: the original addressed to the Grants Officer, Office of the Director; a copy addressed to the ORR Project Officer, Division of Refugee Self-Sufficiency. The mailing address is: Office of Refugee Resettlement, 370 L'Enfant Promenade SW, Sixth Floor—East, Washington, DC 20447.

A final Financial and Program Report shall be due 90 days after the budget expiration date.

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Based on historical experience, ORR anticipates fewer than ten responses annually to this notice. An OMB control number is therefore not required.

Dated: April 15, 1999.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 99–10015 Filed 4–21–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Cooperative Agreement With Policy Research, Inc., To Continue the National GAINS Center for People With Co-Occurring Disorders in the Justice System

AGENCY: Center for Substance Abuse Treatment (CSAT) and Center for Mental Health Services (CMHS), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Cooperative agreement to support the National GAINS Center for People with Co-occurring Disorders in the Justice System.

SUMMARY: This notice is to inform the public of a planned $1,100,000 cooperative agreement award to Policy Research, Inc., to support the National GAINS Center for People with Co-occurring Disorders in the Justice System. CSAT and CMHS will make this award if the application is recommended for approval by the initial review group and the CSAT and CMHS National Advisory Councils. This is not a formal request for applications; assistance will be provided only to Policy Research, Inc. The purpose of the award is to support developing knowledge, conducting analyses of state-of-the-art practices, and disseminating and transferring information related to treating and managing persons in the justice system who are dually diagnosed with substance abuse and mental disorders. The GAINS Center promotes effective solutions by gathering information, assessing what works, interpreting the facts, networking with key stakeholders, and stimulating change.

Eligibility for this program is limited to Policy Research, Inc., a non-profit corporation which operates the National GAINS Center. The GAINS Center has been federally funded by SAMHSA through the National Institute of Corrections/Department of Justice. This resource center has established, on a national level, a locus for the collection and dissemination of information about effective mental health and substance abuse services for people with co-occurring disorders in the justice system. The Center gathers information designed to influence the range and scope of mental health and substance abuse services provided in the justice system, tailors these materials to the specific needs of localities, and provides technical assistance to help them plan, implement, and operate appropriate, cost-effective programs. SAMHSA, for administrative reasons, can no longer fund the Center in this fashion because the former funding mechanism is no longer available. Therefore, SAMHSA will fund the project directly to complete the originally approved term of 5 years. An award to Policy Research, Inc., will enable the GAINS Center to build upon prior work and current activities underway in its work plan. This conversion to direct SAMHSA (CSAT and CMHS) funding will permit several important projects to be completed.

Authority: The cooperative agreement will be made under the authority of section 501(d)(5) of the Public Health Service Act, as amended (42 U.S.C. 290aa). The Catalog of Federal Domestic Assistance number for this program is 93.230.

Contact: Bruce C. Fry, J.D., Division of Practice and Systems Development, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 740,5600 Fishers Lane, Rockville, MD 20857, (301) 443–0128.

Dated: April 16, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–10077 Filed 4–21–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–10]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 21, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Diane L. Lobasso, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410, telephone (202) 708–2191 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: NOFA for Secondary Market for Non-conforming Loans to Low Wealth Borrowers Demonstration Program.

OMB Control Number, if applicable: 2502–0535.

Description of the need for the information and proposed use:

The Department will collect information from grantees (non-profits) to assess their ability to participate in the demonstration program. Information will also be collected on a quarterly basis and at the conclusion of the demonstration to assess the outcome of the program.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 36, frequency of responses is quarterly, the total annual responses are 6, and the estimated annual burden hours requested is 825.

Status of the proposed information collection:

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 12, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 99–10078 Filed 4–21–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–22]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* May 24, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number or respondents, frequency of response, and hours or response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 16, 1999.

David S. Cristy,

Director, ISP and Management.

Title of Proposal: Information Collection for regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

Office: Housing.

OMB Approval Number: 2502–0514.

Description of the Need for the Information and Its Proposed Use: HUD will collect information on the Government-Sponsored Enterprises (GSEs') business activities to: Measure and monitor compliance with statutorily-mandated housing goals. To foster a continuing dialogue between HUD, the GSEs, Congress and the public on the activities of the GSEs with respect to affordable housing and

underserved mortgage market issues; and to improve the operation of the housing finance market.

Form Number: None.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion.

Reporting burden	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
	2		43		64.72		5,632

Total Estimated Burden Hours: 5,632.

Status: Extension of a currently approved collection.

Contact: Janet A. Tasker, HUD, (202) 708–2224; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated April 16, 1999.

[FR Doc. 99–10079 Filed 4–21–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE 010442

Applicant: Missouri Department of Conservation, NW Regional Office, St. Joseph, Missouri.

The applicant requests a permit to take (capture and hold for artificial propagation) Topeka shiners (*Notropis topeka*) from the Moniteau Creek watershed in Cooper and Moniteau Counties, Missouri. Take from the wild is proposed for the purpose of captive propagation and development of propagation techniques for Topeka shiner. Propagation will take place at the Blind Pony Fish Hatchery in Sweet Springs, Missouri. Proposed work is anticipated to result in the enhancement of survival of the species in the wild.

Permit Number TE 805269

Applicant: Dr. Dan Soluk, Center for Aquatic Ecology, Illinois Natural History Survey, Champaign, IL

The applicant requests an amendment to his existing endangered species permit for Hine's emerald dragonfly (*Somatochlora hineana*) to include collection (limited lethal take) of specimens for scientific research to enhance survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations (Attn: Ms. Lisa Mandell), 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5343); FAX: (612/713–5292).

Dated: April 15, 1999.

Lisa L. Mandell,

Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 99–10052 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–008519

Applicant: Zoo Atlanta, Atlanta, GA

The applicant requests a permit to import one male and one female captive-born giant panda (*Ailuropoda melanoleuca*) from Chengdu, China, for scientific research and for the enhancement of the survival of the species through captive breeding.

PRT–009239

Applicant: University of California, Davis, CA

The applicant requests a permit to import hair and blood samples from wild and captive-held Orangutans (*Pongo pygmaeus pygmaeus*) from Sarawak, Malaysia, for the enhancement of the species in the wild through scientific research and conservation.

PRT–010593

Applicant: Donald D. Schmitz, Tucson, AZ

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–010618

Applicant: Anthony N. Sciullo, Wexford, PA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–008873

Applicant: Duke University, Durham, NC

The applicant request a permit to import samples from wild Zanzibar red colobus monkey (*Procolobus kirkii*) in Zanzibar, Tanzania for the purpose of enhancement of the survival of the species through scientific research.

PRT–009445

Applicant: University of Georgia, Athens, GA

The applicant request a permit to import samples from various Psittaciformes held in captivity in various countries for the purpose of enhancement of the survival of the species through scientific research.

PRT–007642

Applicant: Have Trunk Will Travel, Perris, CA

The applicant request a permit to re-import, re-export, and sale in foreign commerce one pre-convention Asian elephant (*Elephas maximus*) to African Lion Safari, Ontario, Canada, for the purpose of enhancement of the survival of the species through propagation.

PRT–797878, 009987, 009988

Applicant: Cat Dancers Ranch, Alachua, Fl

The applicant requests a permit to re-export and re-import leopard (*Panthera*

pardus), tigers (*Panthera tigris*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358–2281).

Dated: April 16, 1999.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–10082 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for an Incidental Take Permit for Golden-cheeked Warbler, Black-capped Vireo, Tooth Cave Pseudoscorpion, Kretschmarr Cave Mold Beetle, Bee Creek Cave Harvestman, Bone Cave Harvestman, Tooth Cave Spider, Tooth Cave Ground Beetle, and Species of Concern, Jollyville Plateau Salamander and Bifurcated Cave Amphipod, During the Construction and Operation of a Residential and Commercial Development on Portions (237 Acres) of the Approximately 550.3-Acre Grandview Hills Property, Austin, Travis County, Texas

SUMMARY: Tomen-Parke Associates, LTD, and Pulte Homes of Texas, L.P. (Applicants) have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number PRT–815447. The requested permit, which is for a period of 30 years, would authorize the incidental take of the endangered golden-cheeked warbler (Dendroica chrysoparia), black-capped vireo (Vireo atricapillus), Tooth Cave pseudoscorpion (Tartarocreagris texana), Kretschmarr Cave mold beetle (Texamaurops reddelli), Bee Creek Cave harvestman (Texella reddelli), Bone Cave harvestman (Texella reyesi), Tooth Cave spider (Neoleptoneta myopica), Tooth Cave ground beetle (Rhadine persephone), and species of concern, Jollyville Plateau salamander (Eurycea sp.) and bifurcated cave amphipod (Stygobromus bifurcatus), during construction and operation of a residential and commercial development on portions of the approximately 550.3-acre Grandview Hills property, Austin, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before May 24, 1999.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Sybil Vosler, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas at the above address. Please refer to permit number PRT–815447 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Sybil Vosler at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

APPLICANT: Tomen-Parke Associates, LTD, and Pulte Homes of Texas, L.P., plan to construct a residential and commercial development on a 550.3-acre tract and will preserve a minimum of 315 acres of golden-cheeked warbler and other endangered species habitat on-site. An additional 15.4 acres of black-capped vireo habitat will be restored adjacent to the property off-site. The construction will be located at the Grandview Hills property, located west of R.M. 620 and north of Bullick Hollow Road on the northwest side of the City of Austin, Travis County, TX. The preserved areas will be maintained in their natural state; title or conservation easement will be granted in perpetuity and held by a non-profit conservation organization or governmental agency approved by the Service. In addition, the Applicants will avoid impacts to the six listed karst invertebrates and two species of concern.

Alternatives to this action were rejected because increased development would result in greater levels of take of golden-cheeked warblers, black-capped vireos and karst invertebrates, and selling or not developing the subject property with federally listed species present was not economically practical or feasible.

Dated: April 8, 1999.

Charlie Sanchez, Jr.,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–10051 Filed 4–21–99; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Paperwork Reduction Act Request to Office of Management and Budget

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for the Johnson-O'Malley Program Annual Report Form, OMB No. 1076–0096, has been submitted to the Office of Management and Budget (OMB) for

approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25).

DATES: Submit your comments and suggestions on or before May 24, 1999.

ADDRESSES: Written comments should be sent directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Room 10102, 725 17th Street NW., Washington, DC 20503. Send a copy of your comments to Garry R. Martin, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street NW., Washington, DC 20240–0001.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection may be obtained by contacting Garry R. Martin, 202–208–3478.

SUPPLEMENTARY INFORMATION:

Abstract

The information collection is necessary to assess the need for Johnson-O'Malley programs as required by 25 CFR 273.50, Annual Reporting. A request for comments on this information collection was published in the **Federal Register** on February 24, 1998 (63 FR 9245). A total of five comments were received. Two commentors remarked that the streamlined format would make reporting a more efficient process and stated that the forms were acceptable. One commentor recommended that the form be numbered for easier reference in the application review process. One respondent commented that it takes longer than the identified number of hours to gather and maintain data for the completion of the annual report but did not offer an alternate length of time. One respondent commented on the relationship of the Johnson-O'Malley annual report form to tribal government programs, self-governance compacts and other Bureau education programs. All comments were received timely and were considered in this analysis.

Request for Comments

Comments are invited on (a) whether the information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including through the use of automated collection techniques or other forms of information technology.

The Office of Management and Budget has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, comments submitted in response to this notice should be submitted to OMB within 30 days in order to assure their maximum consideration.

Title: Johnson-O'Malley Program Annual Report Form.

OMB approval number: 1076–0096.

Frequency: Annually.

Description of respondents: Tribes, Tribal Organizations, School District education program administrators.

Estimated completion time: 5 hours.

Number of Annual responses: 360.

Annual Burden hours: 1,800 hours.

Dated: April 7, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–10024 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1020–00; GP9–0167]

Notice of Meeting of John Day—Snake Resource Advisory Council

AGENCY: Bureau of Land Management, Prineville District Office.

ACTION: Meeting of John Day—Snake Resource Advisory Council: John Day, Oregon; June 3 & 4, 1999.

SUMMARY: A meeting of the John Day—Snake Resource Advisory Council will be held on June 3rd from 8:00 a.m. to 5:00 p.m. and on June 4th from 8:00 a.m. to 3:00 p.m. at the U.S. Forest Service Offices, 431 Paterson Bridge Road, John Day, Oregon 97845. The meeting is open to the public. Public comments will be received at 10:00 a.m. on June 4th. Topics to be discussed by the Council will include: A field trip on June 3rd to the Summit Fire to look at forest health problems in the region; John Day River Plan update; program of work for 1999; presentation of weed management; report on Resource Emphasis and Action Priorities (REAP); and ICBEMP update. Transportation for the field trip will not be provided to the public.

FOR FURTHER INFORMATION CONTACT: James L. Hancock, Bureau of Land Management, Prineville District Office, 3050 NE Third Street, P.O. Box 550, Prineville, Oregon 97754, or call (541) 416–6700.

Dated: April 13, 1999.

James L. Hancock,

District Manager.

[FR Doc. 99–10106 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1410–00; AA–59639]

Public Land Order No. 7386; Opening of Land Under Section 24 of the Federal Power Act; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order opens, subject to the provisions of Section 24 of the Federal Power Act, approximately 11,900 acres of land withdrawn by a Geological Survey order which established Power Site Classification No. 395. This action will permit conveyance of the land to the State of Alaska, if such land is otherwise available, and retain the waterpower rights to the United States. The land has been and continues to be open to mineral leasing.

EFFECTIVE DATE: April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5049.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994), and pursuant to the determination by the Federal Energy Regulatory Commission in DVAK–149–000, it is ordered as follows:

1. Subject to valid existing rights, existing withdrawals, or other segregations of record, and the requirements of applicable law, at 8:00 a.m. Alaska Standard Time, on April 22, 1999, the following described public land withdrawn by the Geological Survey Order dated April 22, 1948, which established Power Site Classification No. 395, is hereby opened to disposal in order to allow for conveyance of the land to the State of Alaska, subject to the provisions of Section 24 of the Federal Power Act:

Seward Meridian

Land located within Tps. 13 N., Rs. 16 through 20 W., and T. 14 N., R. 20 W., more particularly described as:

All land within ¼ mile around the Kenibuna Lake, Chakachatna River, Chakachamna Lake and tributary.

The area described contains approximately 11,900 acres.

2. The State of Alaska applications for selection made under Section 6(b) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1994), and under Section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1994), become effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State will continue to be subject to the terms and conditions of the Power Site Classification No. 395, as established by Geological Survey Order dated April 22, 1948, and any other withdrawal or segregation of record.

Dated: March 29, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–9971 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

Request for Public Comment on Appropriate Studies on Winter Use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Solicitation of public comment on appropriate research topics on winter use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway.

SUMMARY: On September 24, 1998 the National Park Service and the Fund for Animals and other individuals and organizations signed a settlement agreement to resolve litigation concerning the National Park Service Winter Use Plan for Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway. Under the terms of the agreement the National Park Service agreed to solicit comments on appropriate studies they should conduct on winter use in the parks for use in the ongoing winter use planning process. However, due to the time constraints imposed by the settlement agreement, some of the proposed and ongoing winter use research may not be completed in time for incorporation into the draft winter use plans and environmental impact statement. The information will be useful for long term management of winter use in the parks.

The National Park Service requests that all individuals, organizations, agencies or entities that are interested in or affected by winter visitor use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway share comments or concerns on appropriate topics of research for use in the winter user planning process.

Background

Winter use research projects currently underway in the affected national parks include: the social carrying capacity of Yellowstone National Park for winter use, an assessment of winter recreation on wildlife in Yellowstone National Park, a winter visitor survey for Yellowstone and Grand Teton National Parks and the Greater Yellowstone Area, a snowmobile emission survey in Yellowstone, Hayden Valley bison monitoring, Gibbon/Golden Gate bison monitoring, bison use of groomed roads in Yellowstone National Park, characterization of snowmobile particulate emissions, measurement of airborne toxics and regulated pollutants emitted from snowmobiles in Yellowstone National Park, and snowpack and snowmelt runoff chemical analysis at Yellowstone National Park. In addition, research projects are currently being conducted on bison ecology and brucellosis. These studies include forage availability, habitat use, and bison population dynamics.

Proposed research topics include, but are not limited to, snowmobile mogul generation, a field evaluation of gasohol's ability to reduce snowmobiler exposure to carbon monoxide, and snowmobile sound monitoring.

Comments

Written comments concerning appropriate research topics on winter use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway should be postmarked no later than June 21, 1999. Comments should be addressed to Winter Use Research, Planning Office, Box 168, Yellowstone National Park WY, 82190.

FOR FURTHER INFORMATION: Contact Sarah Creachbaum, Planning Office, Box 168, Yellowstone National Park WY, 82190, (307) 344–2024; or George Helfrich, Grand Teton National Park, Box 170, Moose WY, 83102 (307) 739–3486.

Dated: April 7, 1999.

John E. Cook,

Regional Director, Intermountain Region.

[FR Doc. 99–9922 Filed 4–21–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy and Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9622, the Department of Justice gives notice that a proposed partial consent decree in *United States* v. *USX Corp., et al.,* Civil No. 98 C 6389 (N.D. Ill.), was lodged with the United States District Court for the Northern District of Illinois on April 7, 1999, pertaining to the Yeoman Creek Landfill Superfund Site, located in Waukegan, Lake County, Illinois. The proposed partial consent decree would resolve the United States's civil claims against ten *de minimis* defendants named in the action as provided in the consent decree. The settling defendants are Akzo Nobel Coatings, Inc. (successor to Reliance Universal, Inc.); Babson Bros. Co. (on behalf of Pfanstiehl Detergent Chemicals, Inc.); Commonwealth Edison Company; F.K. Pattern & Foundry, Inc.; Kmart Corporation; North Shore Gas Company; Pfanstiehl Corporation (f/k/a Pfanstiehl Chemical Corporation); Pfanstiehl Laboratories, Inc.; Sears, Roebuck and Co.; and Waste Management of Illinois, Inc. (successor to Ace Scavenger Service, Inc.) and Waste Management of Wisconsin,Inc. (f/k/a Acme Disposal Service Corp. and successor to City Disposal Corporation, f/k/a City Disposal Service, Inc.). Under the proposed consent decree, the ten settling defendants would pay a total of $290,000,00.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resource Division, United States Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *USX Corp., et al.,* Civil No. 98 C 6389 (N.D. Ill.), and DOJ Reference No. 90–11–2–1315/1.

The proposed consent decree may be examined at: (1) the Office of the United States Attorney for the Northern District

of Illinois, 219 S. Dearborn Street, Chicago, IL 60604; (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Stuart Hersh (312–886–6235)); and (3) the U.S. Department of Justice, Environment and Natural Resources Division Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005 (202–624–0892). A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and DOJ Reference Number and enclose a check in the amount of $9.00 for the consent decree only (36 pages at 25 cents per page reproduction costs), or $9.75 for the consent decree and all appendices (39 pages), made payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10065 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on April 14, 1999, a proposed consent decree in *United States* v. *WCI Steel, Inc.*, Civil Action No. 4:95 CV 1442, was lodged with the United States District Court for the Northern District of Ohio.

In this action, the United States sought injunctive relief and civil penalties under section 309(b) and (d) of the Clean Water act (''the Act''), 33 U.S.C. 1319(b) and (d), against WCI Steel, Inc. (''WCI'') for violations of section 301 of the Act, 33 U.S.C. 1311, and the terms and conditions of WCI's National Pollutant Discharge Elimination System (''NPDES'') permits at WCI's Warren, Ohio, steel mill. Specifically, the Complaint alleges that WCI repeatedly violated various effluent limitations in each of its three permits over the past several years, as evidenced by WCI's self-monitoring reports, and that numerous unpermitted discharges at both permitted outfalls and unpermitted point sources have occurred. In addition, WCI has allegedly violated various monitoring, sampling, and reporting requirements during the past several years.

The proposed Clean Water Act consent decree provides for injunctive relief consisting of an evaluation of WCI's blast furnace recycle system, a comprehensive evaluation of its wastewater systems, a visible oil corrective action and monitoring plan, the removal of sludge and the lining of a wastewater pond as well as the removal of sludge and filling in of a second wastewater pond, cessation of chlorine discharges except as authorized by its NPDES permit, and various steps to improve compliance with stormwater effluent limitations. In addition, WCI will spend a minimum of $750,000 to conduct a sediment removal Supplemental Environmental Project (''SEP'') and a benthic macro-invertebrate sampling SEP in the Mahoning River. In addition, WCI will pay a civil penalty of $1,140,000 to resolve the claims in the amended CWA complaint as well as claims for certain violations of a December 1997 administrative order.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *WCI Steel, Inc.*, DOJ Ref. # 90–5–1–1–5027.

The proposed consent decree may be examined at the office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue East, Cleveland, Ohio 44114; at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $12.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10066 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Under 28 CFR § 50.7 notice is hereby given that on April 14, 1999, a proposed consent decree in *United States* v. *WCI Steel, Inc.*, Civil Action No. 4:96 CV 659, was lodged with the United States District Court for the Northern District of Ohio.

In this action, the United States sought injunctive relief and civil penalties under Section 113(b) of the clean Air Act, 42 U.S.C. 7413(b), for violations of the National Emission Standard for Hazardous Air Pollutants for Asbestos (''Asbestos NESHAP''), 40 CFR Part 61, Subpt, M, the federally approved Ohio State Implementation Plan (''SIP''), and an Approval to Construct permit issued pursuant to regulations promulgated under Part C of the Act, Prevention of Significant Deterioration of Air Quality, at WCI Steel's Warren, Ohio, facility. Specifically, the Complaint alleges that WCI violated the work practice, inspection, and notice requirements of the Asbestos NESHAP, the opacity limits set forth in Ohio Rule AP–3–07 and its revised version codified at OAC Rule 3745–17–07 of the Ohio SIP, the mass emission limits set forth in Ohio Rule AP–3–12 and its revised version codified at OAC Rule 3745–17–11 of the Ohio SIP, and the particulate emission limits set forth in WCI's Approval to Construct permit. The proposed consent decree provides for injunctive relief consisting of an asbestos NESHAP compliance plan, a visible emissions monitoring program, and an internal and external inspection and evaluation at WCI's electrostatic precipitator stack. In addition, WCI will pay a civil penalty of $600,000 to resolve claims under the Clean Air Act, the asbestos NESHAP, and the Ohio SIP.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *WCI Steel, Inc.*, DOJ Ref. #90–5–1–1–5027A.

The proposed consent decree may be examined at the office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue East, Cleveland, Ohio 44114; at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $8.00 (25 cents per page

reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10067 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended

Notice is hereby given that on March 26, 1999, a proposed consent decree in *United States* v. *Daniel Wettreich, et al.*, Civil Action No. 97–2648–CIV–T–23(B) was lodged with the United States District Court for the Middle District of Florida, Tampa Division.

In this action, the United States sought reimbursement of response costs incurred with respect to a release and threatened release of hazardous substances at the APF Industries Site in St. Petersburg, Florida. The United States sued three parties, alleging that they were liable under 42 U.S.C. 9607(a)(2): Daniel Wettreich; Hermina, Inc., as trustee for the Wettreich Heritage Trust; and Zara Wetterich, as trustee for the Wettreich Heritage Trust. In resolution of these claims, the defendants will pay the United States $40,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Daniel Wettreich, et al.*, D.J. Ref. 90–11–2–963A.

The proposed consent decree may be examined at the Office of the United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida; at U.S. EPA Region 4, 61 Forsyth Street, SW, Atlanta Georgia 30303; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC, 20005. In requesting a copy, please enclose a check in the amount of $6.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–10068 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Internatonal Competition Policy Advisory Committee (ICPAC); Notice of Hearings

The International Competition Policy Advisory Committee (''Advisory Committee'') has rescheduled hearings that were scheduled for April 23, 1999 in Washington, D.C. The hearings will now be held on May 17, 1999. The hearings currently scheduled for April 22, 1999 will still take place as planned. The Advisory Committee was established by the Department of Justice to provide advice regarding issues relating to international competition policy; specifically, how best to cooperate with foreign authorities to eliminate international anticompetitive agreements, how best to coordinate United States' and foreign antitrust enforcement efforts in the review of multinational mergers, and how best to address issues that interface international trade and competition policy concerns. The hearings on May 17, 1999 will be held at the American Geophysical Union Conference Center, 2000 Florida Avenue, N.W., Washington, D.C. 20009–1277. The agenda and current schedule for the hearings are as follows:

May 17, 1999

9:00–9:30—Welcoming Remarks
9:30–12:00—Session One: Presentations by Members of the ABA Section of Antitrust Law ICPAC Task Force
1:00–2:00—Session Two: Presentations by Economists
2:00–3:45—Session Three: Presentations from Representatives of U.S. Businesses
4:00–5:30—Session Four: Presentations on Institution Building and Competition Law Advocacy

The hearings schedule is not final and may change. For the latest information about the hearings schedule or other matters related to the hearings, please check the Advisory Committee's website at: www.usdoj.gov/atr/icpac/icpac.htm or contact Marianne Pak of the Advisory Committee staff at (202) 353–9074.

Attendance is open to the interested public, limited by the availability of space. Persons needing special assistance, such as sign language interpretation or other special accommodations, should notify the contact person listed below as soon as possible. Members of the public may submit written statements by mail, electronic mail, or facsimile at any time before or after the hearings to the contact person listed below for consideration by the Advisory Committee. Oral statements from the public will not be solicited or accepted at the hearings. For further information contact: Merit Janow, c/o Marianne Pak, U.S. Department of Justice, Antitrust Division, 601 D Street, N.W., Room 10011, Washington, D.C. 20530, Telephone: (202) 353–9074, Facsimile: (202) 353–9985, Electronic mail: icpac.atr@usdoj.gov.

Merit E. Janow,

Executive Director, International Competition Policy Advisory Committee.

[FR Doc. 99–10257 Filed 4–21–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities; Announcement of OMB Approvals

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing that the Office of Management and Budget (OMB) has intended the approval for a number of information collection requirements in OSHA's safety and health standards. OSHA sought approval under the Paperwork Reduction Act of 1995 (PRA–95) and as required by that Act, is announcing the OMB control numbers and expiration dates for the approval requirements.

FOR FURTHER INFORMATION CONTACT: Barbara J. Bielaski, Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3627, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone (202) 693–1954.

SUPPLEMENTARY INFORMATION: In a series of **Federal Register** notices, OSHA announced its intent to request an extension of approval for various information collection (paperwork) requirements in its safety and health standards for General Industry,

Shipyard Employment, and the construction Industry. In accordance with the Paperwork Reduction Act (PRA–95) (44 U.S.C. 3501–3520), OMB has renewed its approval for these information collection requirements and issue control numbers. Below is a listing of the title of the information collection requirements, the date OSHA requested public comment via the **Federal Register** the OMB control numbers, and the expiration dates for the approvals.

Title	Federal Register date	OMB Control No.	Expiration date
Portable Fire Extinguishers Annual Maintenance Record	12/29/97	1218–0238	5/31/2001
Acrylonitrile	1/21/98	1218–0126	5/31/2000
4,4 Methylenedianiline for Construction	1/30/98	1218–0183	4/30/2000
4,4 Methylenedianiline for General Industry	1/30/96	1218–0184	4/30/2000
Cotton Dust	2/27/98	1218–0061	4/30/2000
Personal Protective Equipment	4/20/98	1218–0205	3/31/2000
Welding, Cutting, and Brazing	4/20/98	1218–0207	7/31/2001
Commercial Diving Operations	4/20/98	1218–0069	11/30/2001
Fire Brigades	5/19/98	1218–0075	11/30/2001
Logging Operations	5/21/98	1218–0198	6/30/2001
Powered Platforms for Exterior Building Maintenance	6/19/98	1218–0121	6/30/2001
Grain Handling Facilities	6/26/98	1218–0206	7/31/2001
Walking/Working Surfaces	6/26/98	1218–0199	11/30/2001
Storage & Handling of Anhydrous Ammonia	6/26/98	1218–0208	6/30/2001
Accident Prevention Tags	7/28/98	1218–0132	6/30/2001
Electrical Standards for Construction	8/6/98	1218–0130	1/31/2002
Presence Sensing Device Initiation	8/13/98	1218–0143	1/31/2002
Control of Hazardous Energy Lockout/Tagout	8/13/98	1218–0150	2/28/2002
Confined Spaces, Shipyard Employment	9/9/98	1218–0011	1/31/2002

Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number and the Agency informs respondents that they are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Authority and Signature

This notice was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of April 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–10070 Filed 4–21–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10021, et al.]

Proposed Exemptions; First Security Corporation (FSC) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete

statement of the facts and representations.

First Security Corporation (FSC) Located in Salt Lake City, UT

[Application No. D–10021]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[1]

Section I. Proposed Exemption for the In-Kind Transfer of Assets

If the exemption is granted the restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (F) shall not apply to the in-kind transfers, that occurred on December 28, 1994, to any open-end investment company (the Fund or Funds) registered under the Investment Company Act of 1940 (the Investment Company Act) to which FSC or any of its affiliates (collectively, First Security) serves as investment adviser and/or may provide other services, of the assets of various employee benefit plans (the Plan or Plans) that are held in certain collective investment funds (the CIF or CIFs) maintained by First Security, in exchange for shares of such Funds, provided that the following conditions were met:

(a) A fiduciary (the Second Fiduciary) which was acting on behalf of each affected Plan and which was independent of and unrelated to First Security, as defined in paragraph (g) of Section II below, received advance written notice of the in-kind transfer of assets of the CIFs in exchange for shares of the Funds, a full and detailed written disclosure of information concerning any such Fund including, but not limited to—

(1) A current prospectus for each of the Funds in which such Plan considered investing;

(2) A statement describing the fees for investment management, investment advisory, or other similar services, any fees for secondary services (Secondary Services), as defined in paragraph (h) of Section II below, and all other fees charged to or paid by the Plan and by the Funds to First Security, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why First Security considered such investment to be appropriate for the Plan;

(4) A statement describing whether there were any limitations applicable to First Security with respect to which assets of a Plan may be invested in the Funds, and, if so, the nature of such limitations; and

(5) When available, upon request of the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, if granted.

(b) On the basis of the information described above in paragraph (a) of this Section I, the Second Fiduciary authorized in writing—

(1) The investment of assets of the Plans in shares of the Fund, in connection with the transactions set forth in Section I;

(2) the investment portfolios of the Funds in which the assets of the Plans were invested; and

(3) the fees received by First Security in connection with its services to the Funds. Such authorization by the Second Fiduciary was consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(c) All transferred assets were securities for which market quotations were readily available, or cash.

(d) No sales commissions or redemption fees, including fees that are payable pursuant to Rule 12b–1 of the Investment Company Act (the 12b–1 Fees), were paid by the Plans in connection with the in-kind transfers of the assets of the CIFs in exchange for shares of the Funds.

(e) Neither First Security nor its affiliates, including any officers or directors, would be permitted to purchase from or sell to any of the Plans shares of any of the Funds.

(f) The Plans were not sponsored or maintained by First Security.

(g) The transferred assets in exchange for shares of such Funds constituted the Plan's pro rata portion of all assets that were held by the CIFs prior to the transfer. A Plan not electing to invest in the Fund received a cash payment representing a pro rata portion of the assets of the terminating CIF before the final liquidation took place.

(h) The CIFs received shares of the Funds that had a total net asset value equal to the value of the transferred assets of the CIFs exchanged for such shares on the date of transfer.

(i) The current market value of the assets of the CIFs transferred in-kind in exchange for shares of the Funds was determined in a single valuation performed in the same manner and at the close of business on the same day, using independent sources in accordance with the procedures set forth in Rule 17a–7(b) (Rule 17a–7) under the Investment Company Act, as amended from time to time or any successor rule, regulation, or similar pronouncement and the procedures established pursuant to Rule 17a–7 for the valuation of such assets. Such procedures required that all securities for which a current market price could not be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ were to be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the last business day preceding the CIF transfers determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of First Security.

(j) Not later than 30 days after completion of each in-kind transfer of assets of the CIFs in exchange for shares of the Funds, First Security sent by regular mail to the Second Fiduciary, which was acting on behalf of each affected Plan and which was independent of and unrelated to First Security, as defined in paragraph (g) of Section II below, a written confirmation that contained the following information:

(1) The identity of each of the assets that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4) under the Investment Company Act;

(2) The current market price, as of the date of the transfer, of each such security involved in the purchase of Fund shares; and

(3) The identity of each pricing service or market maker consulted in determining the value of such assets.

(k) Not later than 90 days after completion of each in-kind transfer of assets of the CIFs in exchange for shares of the Funds, First Security sent by regular mail to the Second Fiduciary, which was acting on behalf of each affected Plan and which was independent of and unrelated to First Security, as defined in paragraph (g) of Section II below, a written confirmation that contained the following information:

(1) The number of CIF units held by each affected Plan immediately before the conversion (and the related per unit value and the aggregate dollar value of the units transferred); and

(2) the number of shares in the Funds that were held by each affected Plan

[1] For purposes of this proposed exemption, reference to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

following the conversion (and the related per share net asset value and the aggregate dollar value of the shares received).

(l) As to each individual Plan, the combined total of all fees received by First Security for the provision of services to the Plans, and in connection with the provision of services to any of the Funds in which the Plans hold shares acquired in connection with an in-kind transfer transaction, was not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(m) On an ongoing basis, First Security has provided and will continue to provide a Plan investing in a Fund—

(1) At least annually with a copy of an updated prospectus of such Fund; and

(2) at least annually with a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) which contains a description of all fees paid by the Fund to First Security, upon the request of such Second Fiduciary.

(n) All dealings between the Plans and any of the Funds have been and will remain on a basis no less favorable to such Plans than dealings between the Funds and other shareholders holding the same class of shares as the Plans.

(o) First Security has maintained and will maintain for a period of 6 years the records necessary to enable the persons, as described below in paragraph (p)(1) of this Section I, to determine whether the conditions of this proposed exemption have been met, except that:

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of First Security, the records are lost or destroyed prior to the end of the 6 year period; and

(2) no party in interest, other than First Security, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (p) of this Section I.

(p)(1) Except as provided in paragraph (p)(2) of this Section I and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (o) of Section II above are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC);

(B) Any fiduciary of each of the Plans who has authority to acquire or dispose of shares of any of the Funds owned by such a Plan, or any duly authorized employee or representative of such fiduciary; and

(C) any participant or beneficiary of the Plans or duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in paragraph (p)(1)(B) and (p)(1)(C) of this Section I shall be authorized to examine trade secrets of First Security, or commercial or financial information which is privileged or confidential.

Section II. Definitions

For purposes of this proposed exemption—

(a) The term ''First Security'' means FSC and any affiliate of FSC, as defined in paragraph (b) of this Section II.

(b) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Fund,'' ''Funds'' or ''Affiliated Funds'' means any open-end management investment company or companies registered under the Investment Company Act for which First Security serves as investment adviser and/or provides any Secondary Service as approved by such Funds. As noted in the Preamble, the Funds are also referred to as the ''Affiliated Funds'' to distinguish them from certain third party funds (the Third Party Funds) for which First Security and its affiliates provide subadministrative services and which are not involved in conversion transactions that are described herein.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and statement of additional information, and other assets belonging to each of the portfolios in such Fund, less the liabilities charged to each portfolio, by the number of outstanding shares.

(f) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term ''Second Fiduciary'' means a fiduciary of a plan who is independent of and unrelated to First Security. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to First Security if:

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with First Security;

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary is an officer, director, partner, or employee of First Security (or is a relative of such persons); or

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with the transactions described in this proposed exemption.

If an officer, director, partner, or employee of First Security (or a relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (A) the choice of the Plan's investment manager/adviser or (B) the approval of any purchase or sale by the Plan of shares of the Funds, in connection with the transactions described in Section I, then paragraph (g)(2) of this Section II, shall not apply.

(h) The term ''Secondary Service'' means a service, other than an investment management, investment advisory, or similar service, which is provided by First Security to the Funds, including but not limited to custodial, accounting, brokerage, administrative, or any other service.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of December 28, 1994.

Preamble

First Security initially filed a request for retroactive and prospective exemptive relief (Exemption Application No. D–09916) with the Department to permit the in-kind transfer of Plan assets held in CIFs maintained by First Security to any Affiliated Fund for which First Security might serve as investment adviser and/or provide other fiduciary services. In addition, First Security requested that the exemption cover any fees it might receive from the Affiliated Funds as well as from certain Third Party Funds

for which it might serve as a custodian, subadministrator or other service provider. If granted, the exemption would have been effective as of December 28, 1994.

Upon further consideration, First Security decided to withdraw the fee transaction aspect of its exemption request and continue to rely on its interpretation of Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977) with respect to its receipt of fees from the Affiliated Funds. In pertinent part, PTE 77–4 permits the purchase and sale by an employee benefit plan of shares of a mutual fund when a fiduciary with respect to the plan is also the investment adviser of the investment company. In addition, Section II(c) of PTE 77–4 requires, in part, that a plan may pay an investment advisory fee to the plan fiduciary based on total plan assets from which a credit has been subtracted representing the plan's *pro rata* share of investment advisory fees paid by the plan to the mutual fund.

The Department expresses no opinion herein on whether interim and subsequent fee arrangements adopted by First Security comply with the relevant provisions of PTE 77–4. As a result of the uncertainty regarding the application of PTE 97–41 [2] to the original exemption request, the Department has made a determination to propose the exemption and limit the scope of exemptive relief to the three conversion transactions described below.

Summary of Facts and Representations

1. The parties involved in the in-kind transfer transactions that are discussed herein are described as follows:

(a) *FSC* is a national association bank holding company/financial services corporation incorporated under the laws of the State of Delaware and headquartered in the State of Utah. FSC's affiliates include the following banks: First Security Bank of New Mexico, N.A.; First Security Bank of Oregon; First Security Bank of Utah, N.A. (FSB Utah); First Security Bank of Idaho, N.A. (FSB Idaho); First Security Trust Company of Nevada (FSB Nevada); First Security Bank of Wyoming; and First Security Investment Management, Inc. (FSIM), an indirect, wholly owned subsidiary registered as an investment adviser under the Advisers Act. As of December 31, 1997, First Security had aggregate assets under management of approximately $5.2 billion. FSB Utah formerly served as trustee with respect to the CIFs described herein and FSIM serves as investment adviser to the Funds also described herein.

(b) *The Plans* consist of retirement plans qualified under section 401(a) of the Code, pension plans as defined in section 3(2) of the Act, ''plans'' as defined in section 4975(e)(1) of the Code, including certain individual retirement accounts (the IRAs) that are subject to section 408(a) of the Code and certain Keogh Plans that are qualified under section 401(a) of the Code. For these Plans, First Security serves as a directed trustee, a discretionary trustee, an investment manager or a fiduciary. The Plans also include participant-directed plans subject to the provisions of section 404(c) of the Act [3] but they do not include any plans sponsored by First Security.[4] Whether a Plan would be an investor in a CIF at the time of a conversion transaction or elect to invest in any Fund depended solely on the decision of a Plan fiduciary which was independent of First Security.

(c) *The CIFs* consisted of certain portfolios of the Affiliated Banks of First Security Corporation Investment Trust for Employee Benefit Plans. These portfolios were the Common Stock Trust, the Two Year Bond Trust and the Intermediate Corporate/Government Bond Trust. As of September 30, 1994, the aggregate fair market value of these CIFs was approximately $66 million. Participation in the CIFs was open to any Plan with respect to which a First Security bank was a fiduciary. As described below, the three CIFs were terminated as of December 28, 1994 following the conversion transactions.

(d) *The Funds* consist of separate portfolios of open-end investment companies registered under the Investment Company Act. The Funds constitute part of the Achievement Funds Trust, a registered, open-end series management investment company which has been organized under Massachusetts law as an unincorporated business trust. The Funds are identified as follows: the Short Term Bond Fund, the Intermediate Bond Fund, the Equity Fund, the Balanced Fund, the Idaho Municipal Bond Fund and the Short Term Municipal Fund.[5]

FSIM serves as investment adviser to the Funds. In this capacity, FSIM makes investment decisions with respect to the assets of each Fund and reviews, supervises and administers each Fund's investment program. In the future, First Security proposes to serve as the subadministrator for the Funds and will provide Secondary Services to the Funds.

Two classes of beneficial interests (i.e., shares) in the Funds have been issued. Retail Class A Shares are offered primarily to individuals (including certain non-fiduciary IRA and Keogh accounts). Retail Class D Shares are offered to individuals, Plans and IRAs through intermediaries such as banks or investment managers. Except for their fee structures, the two classes are identical and hold interests in the same underlying Fund assets.

2. First Security represents that it has maintained CIFs as investment options for Plans in accordance with requirements under Federal or state banking laws that apply to collective investment trusts. However for business reasons, it decided to terminate the Common Stock Trust, the Two Year Bond Trust and the Intermediate Corporate/Government Bond Trust and to offer Plans formerly participating in such CIFs alternative investments in certain Funds. Because interests in CIFs generally must be liquidated or withdrawn to effect distributions, First Security believed that the interests of the Plans investing in CIFs would be better served by in-kind transfers to the Funds. Overall, First Security believed that the Funds would offer Plans

[2] PTE 97–41 is a class exemption which permits an employee benefit plan (the Client Plan) to purchase shares of one or more open-end management investment companies (i.e., Funds) registered under the Investment Company Act, the investment adviser for which is a bank (the Bank) or a plan adviser (the Plan Adviser) registered under the Investment Advisers Act of 1940 (the Advisers Act), that also serves as a fiduciary of the Client Plan, in exchange for plan assets transferred in-kind to the Fund from a CIF maintained by the Bank or the Plan Adviser, in connection with the complete withdrawal of a Client Plan's assets from the CIF.

[3] The Department is not providing exemptive relief to such Plans to the extent such transactions are covered under section 404(c) of the Act.

[4] The applicants have not requested exemptive relief with respect to any investment in the Funds by Plans sponsored by First Security. The applicants note that First Security-sponsored plans might acquire or redeem shares in the Funds pursuant to Prohibited Transaction Exemption (PTE) 77–3 (42 FR 18734, April 8, 1977). PTE 77–3 permits the acquisition or sale of a registered, open-end investment company by an employee benefit plan covering only employees of such investment company, employees of the investment adviser or principal underwriter for such investment company, or employees of any affiliated person (as defined therein) of such investment adviser or principal underwriter, provided certain conditions are met. The Department is expressing no opinion in this proposed exemption regarding whether any transactions with the Funds by First Security-sponsored Plans would be covered by PTE 77–3.

Similarly, First Security has not requested exemptive relief with respect to future purchases or sales of shares of a Fund by Plans since it believes such transactions would be covered by PTE 77–4.

[5] Although the Idaho Municipal Fund and the Short Term Municipal Fund are included within the Achievements Fund Trust, these Funds are not offered to Plan investors.

numerous advantages as pooled investment vehicles, including daily valuations reported in newspapers of general circulation, increased liquidity, portability, investment consolidation, voting and other shareholder rights. Further, First Security wished to expand the range of investment options available to Plans by offering other Funds (i.e., the Balanced Fund, the International Equity Portfolio and the Small Cap Growth Portfolio) that did not correspond to its existing CIFs.

3. First Security also noted that Plans investing in the Funds would periodically receive certain disclosures concerning the Funds. Such disclosures would include, but would not be limited to, (a) an updated copy of the prospectus provided on an annual basis; and (b) an annual report containing audited financial statements of the Funds and information regarding such Funds' performance (unless such information is included in the prospectus of the Funds) and the fees paid to First Security, depending upon the type of Plan account that was established. Further, First Security represented that it would report all transactions in shares of the Funds in periodic account statements provided to the Second Fiduciary of each of the Plans.

4. Thus, to avoid the potentially large brokerage expenses, on December 28, 1994, First Security transferred the assets of the three affected CIFs, which assets consisted of cash and marketable securities, to corresponding portfolios of the Funds, in exchange for shares of such Funds. First Security represents that the in-kind transfers were ministerial transactions performed in accordance with pre-established, objective procedures which were approved by the board of trustees of each Fund. Such procedures require that assets transferred to a Fund (a) be consistent with the investment objectives, policies, and restrictions of the corresponding portfolios of such Fund, (b) satisfy the applicable requirements of the Investment Company Act and the Code, and (c) have a readily ascertainable market value established by independent sources. In addition, any assets that were transferred were required to be liquid and would not be subject to restrictions on resale. Assets which did not meet these criteria were required to be sold in the open market through an unaffiliated brokerage firm prior to any transfer in-kind. Further, prior to entering into and following an in-kind transfer transaction, each affected Plan would be required to receive certain disclosures from First Security and approve such transactions in writing. Accordingly, First Security requests retroactive exemptive relief from the Department.

5. In accordance with the criteria described above in Representation 4, First Security stated that it conducted the in-kind transfer transactions as follows:

Prior to each in-kind transfer, the assets of the three CIFs were reviewed to confirm that they were appropriate investments for the corresponding portfolios of the Funds. If any of the assets of such CIFs were not appropriate for the Funds, First Security sold the assets in the open market through an unaffiliated brokerage firm.

Participants in the affected CIFs who did not elect to participate in the conversion transactions received distributions of the value of their interests therein. However, with respect to participants in the CIFs who elected to participate in the in-kind transfers and transfer their interests to the Funds, the transferred assets constituted the participants' and Plans' *pro rata* portion of all assets that were held by the CIF immediately prior to the transfer. Further, the Funds had investment objectives and policies that were substantially identical to those of the CIFs. Following the in-kind transfers, the affected CIFs were terminated.

No brokerage commissions, redemption fees, 12b–1 Fees or expenses (other than customary transfer charges paid to parties other than First Security or its affiliates) were charged to the Plans or the CIFs in connection with the in-kind transfers of assets into the Funds or would be charged with respect to the redemption of shares of such Funds. Further, neither First Security nor its affiliates, including any officers or directors, were (nor would be) permitted to purchase from or sell to any of the Plans shares of the Funds.

6. First Security provided the Second Fiduciary, as defined in Section II(g), for each affected Plan with disclosures announcing the termination of the CIFs, summarized the transaction, and otherwise complied with provisions of Section I of this proposed exemption. Based on these disclosures, the Second Fiduciary from each Plan approved, in writing, the in-kind transfer of the CIFs assets to the corresponding Funds, in exchange for shares of the Funds, and the receipt by First Security of fees for services provided to such Funds.

7. The assets transferred by the affected CIFs to the Funds consisted entirely of cash and securities for which market quotations were readily available. The value of the securities in each of the three CIFs was determined based on market values as of the close of business on December 27, 1994, the last business date prior to the transfer. Such values were determined in a single valuation performed in the same manner and at the close of business on the same day, using independent sources in accordance with the procedures described in Rule 17a–7 under the Investment Company Act, as amended from time to time or any successor rule, regulation or similar pronouncement and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets.[6] In this regard, First Security represents that the ''current market price'' for specific types of CIF securities involved in the transactions was determined as follows:

(a) If the security was a ''reported security'' as the term is defined in Rule 11Aa3–1 under the Securities Exchange Act of 1934 (the 1934 Act), the last sale price with respect to such security reported in the consolidated transaction reporting system (the Consolidated System) for December 27, 1994; or if there were no reported transactions in the Consolidated System that day, the average of the highest current independent bid and the lowest current independent offer for such security (reported pursuant to Rule 11Ac1–1 under the 1934 Act), as of the close of business on December 27, 1994.

(b) If the security was not a reported security, and the principal market for such security was an exchange, then the last sale on such exchange on December 27, 1994; or if there were no reported transactions on such exchange that day, the average of the highest current independent bid and lowest current independent offer on such exchange as of the close of business on December 27, 1994.

(c) If the security was not a reported security and was quoted in the NASDAQ system, then the average of the highest current independent bid and lowest current independent offer reported on Level 1 of NASDAQ as of the close of business on December 27, 1994.

(d) For all other securities, the average of the highest current independent bid and lowest current independent offer as of the close of business on December 27, 1994, determined on the basis of reasonable inquiry. (For securities in this category, First Security represents that it obtained quotations from at least three sources that were either broker-dealers or pricing services independent of and unrelated to First Security and used the average of the quotations to value the securities, in

[6] Rule 17a–7 provides an exemption from section 17(a) of the Investment Company Act, which prohibits, among other things, principal transactions between an investment company and its investment adviser or affiliates of the investment adviser. Among the conditions of Rule 17a–7 is the requirement that the transaction be effected at the ''independent current market price'' for specific types of CIF or Plan assets involved in the in-kind transfer.

conformance with interpretations by the SEC and practice under Rule 17a–7.)

8. The securities received by the corresponding portfolios of the Funds were valued by each such portfolio for purposes of the in-kind transfers in the same manner and on the same day as such securities were valued by the CIFs. The per share value of the shares of each portfolio of the Funds issued to the CIFs was based on the corresponding portfolio's then current net asset value. As a result of this procedure, the aggregate value of the shares of the corresponding Fund issued to the CIF was equal to the value of the assets (cash and marketable securities) transferred to such portfolio as of the opening of business on December 28, 1994. In addition, the value of a Plan's investment in shares of a corresponding portfolio, as of the opening of business on the date of the transactions (December 28, 1994), was equal to the value of such Plan's investment in the corresponding CIFs as of the close of business on the last business day prior to the transaction (December 27, 1994).

9. Not later than 30 days after completion of the in-kind transfer transaction, First Security sent by regular mail a written confirmation of the transaction to each affected Plan. Such confirmation contained: (a) the identity of each security that was valued in accordance with Rule 17a–7(b)(4), as described above; (b) the price of each such security for purposes of the transaction; and (c) the identity of each pricing service or market maker consulted in determining the value of such securities.

In addition, not later than 90 days after completion of each in-kind transfer transaction, First Security sent, by regular mail to the Second Fiduciary of each affected Plan, a written confirmation containing the following information: (a) the number of CIF units held by each affected Plan immediately before the conversion (and the related per unit value and the aggregate dollar value of the units transferred); and (b) the number of shares in the Funds that were held by each affected Plan following the conversion (and the related per share net asset value and the aggregate dollar value of the shares received).

10. The requested exemption is also subject to the satisfaction of certain general conditions. For example, the transactions are subject to the prior authorization of a Second Fiduciary, acting on behalf of each of the Plans, who has been provided with full written disclosure by First Security. The Second Fiduciary is generally the administrator, sponsor or a committee appointed by the sponsor to act as a named fiduciary for a Plan.

With respect to disclosures, the Second Fiduciary of such Plan received, in writing, in advance of the investment by a Plan in any of the Funds: (a) a current prospectus for each of the Funds in which such Plan might invest; (b) a statement describing the fees for investment management, investment advisory, or other similar services, any fees for Secondary Services, and all other fees to be charged to or paid by the Plan and by such Funds to First Security, including the nature and extent of any differential between the rates of such fees, (c) the reasons why First Security considered such investment to be appropriate for the Plan, (d) a statement describing whether there were any limitations applicable to First Security with respect to which assets of a Plan may be invested in the Funds, and, if so, the nature of such limitations. Upon written request, the Second Fiduciary will be provided with a copy of the proposed exemption and/or the final exemption, if granted.

On the basis of the information disclosed, the Second Fiduciary of a Plan authorized, in writing, the investment of assets of the Plan in shares of a Fund in connection with the transactions set forth herein, the investment portfolios of the Funds in which the assets of the Plans may be invested and the compensation received by First Security in connection with its services to the Funds. In addition, the Second Fiduciary received each Fund's current prospectus and the written disclosures referred to above which specifically referenced the Fund and afforded such fiduciary the opportunity to select the Fund for its prior authorization. Having obtained the authorization of the Second Fiduciary, First Security invested the assets of a Plan among the portfolios and in the manner covered by the authorization, subject to the satisfaction of the other terms and conditions of the proposed exemption.

In addition to the above, as to each individual Plan, the combined total of all fees received by First Security for the provision of services to the Plans, and in connection with the provision of services to any of the Funds in which the Plans hold shares acquired in connection with the in-kind transfers, were required not to be in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act. Further, all dealings by or between the Plans and the Funds were required to remain on a basis which would be at least as favorable to the Plans as such dealings are with other shareholders of the Funds.

11. Besides the disclosures provided to the Plan prior to investment in any of the Funds, First Security represents that it will routinely provide, at least annually to the Second Fiduciary, updated prospectuses of the Funds in accordance with the requirements of the Investment Company Act and the SEC rules promulgated thereunder. Further, the Second Fiduciary will be supplied, at least annually, with a report or statement (which may take the form of the most recent financial report of such Funds, the current statement of additional information, or some other written statement) containing a description of all fees paid by the Fund.

12. In summary, First Security represents that the in-kind transfer transactions satisfied the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The CIFs did not pay sales commissions or redemption fees in connection with the in-kind transfer of assets to the Funds in exchange for shares of the Funds.

(b) With respect to any in-kind transfer of assets, the CIFs received shares of the Funds that were equal in value to the assets of the CIFs exchanged for such shares, the latter values determined in a single valuation performed in the same manner and at the close of business on the same day in accordance with the procedures set forth in Rule 17a–7 under the Investment Company Act, as amended from time to time or any successor rule, regulation, or similar pronouncement.

(c) Not later than 30 days after completion of each in-kind transfer of assets in exchange for shares of the Funds, the Second Fiduciaries of the affected Plans received written confirmation of the assets involved in the exchange which were valued by a third-party source (e.g., pricing service or market maker) in accordance with Rule 17a–7(b)(4), the price of such assets and the identity of the pricing service or market maker consulted.

(d) Not later than 90 days after completion of each in-kind transfer of assets of the CIFs in exchange for shares of the Funds, First Security mailed to each affected Plan a written confirmation of the number of CIF units held by such Plan immediately before the conversion (and the related per unit value and the aggregate dollar value of the units transferred), and the number of shares in the Funds that were held by the Plan following the conversion (and the related per share net asset value or the aggregate dollar value of the shares received).

(e) The price paid or received by the Plans for shares in the Funds was the net asset value per share at the time of the transaction and was the same price for the shares which would have been paid or received by any other investor at that time.

(f) First Security, its affiliates, and officers or directors would not be permitted to purchase or sell to any of the Plans shares of any of the Funds.

(g) As to each individual Plan, the combined total of all fees received by First Security for the provision of services to the Plans, and in connection with the provision of services to any of the Funds in which the Plans may invest, was not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(h) Prior to investment by a Plan in any of the Funds, in connection with transactions, the Second Fiduciary received a full and detailed written disclosure of information concerning such Fund.

(i) Subsequent to the investment by a Plan in any of the Funds, First Security would provide the Second Fiduciary of such Plan with an updated copy of the prospectus for each of the Funds in which the Plan invests, at least annually as well as other pertinent information.

(j) All dealings between the Plans and any of the Funds would remain on a basis no less favorable to such Plans than dealings between the Funds and other shareholders holding the same class of shares as the Plans.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

San Diego Electrical Pension Trust, (the Pension Plan); and San Diego Joint Apprenticeship and Training Trust (the Training Plan; collectively, the Plans) Located in San Diego, California

[Application Nos. D–10581 and L–10582]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the proposed purchase by the Training Plan from the Pension Plan of a minority interest (the Minority Interest) in certain improved real property (the Property) jointly owned by the Plans, provided that the following conditions are satisfied:

(1) The purchase is a one-time transaction for cash;

(2) The terms and conditions of the transaction are not less favorable to either Plan than those each could obtain in a comparable arm's length transaction with an unrelated party;

(3) The Training Plan pays no more, and the Pension Plan receives no less, than the fair market value of the Minority Interest, as of the date of the transaction, as determined by a qualified, independent appraiser;

(4) Neither the Pension Plan nor the Training Plan pays any commissions or fees in connection with the transaction;

(5) The trustees of the Plans (other than their common trustees), the Pension Plan's investment manager, and a qualified, independent fiduciary that has been retained to represent the Training Plan, have reviewed the terms and conditions of the transaction and determined that such terms and conditions are in the best interests of, and appropriate for, their respective Plans; and

(6) The independent fiduciary for the Training Plan monitors the proposed transaction and takes whatever actions necessary to safeguard the interests of the Training Plan.

Summary of Facts and Representations

1. The Plans are multiple employer, jointly trusteed employee benefit plans, established pursuant to collective bargaining agreements between Local 569, the International Brotherhood of Electrical Workers, and the National Electrical Contractors Association, San Diego Chapter, Inc. The Plans cover members of Local 569.

The Pension Plan is a defined benefit plan and, as of January 9, 1998, had approximately 2,790 participants and beneficiaries. As of September 30, 1997, the fair market value of the assets of the Pension Plan was $181,250,000.

The Training Plan is a welfare plan that operates a five-year apprenticeship program approved and regulated by the Division of Industrial Relations, State of California. As of January 9, 1998, the approximate number of apprentices participating in the Training Plan was 230. As of December 31, 1997, the fair market value of the assets of the Training Plan was $2,930,680.

Each of the Plans is managed by a board of trustees, with eight trustees on each board. Currently, there are three trustees who serve on both boards: Mr. Michael Sparks, Mr. Ronald Cooper, and Mr. James Aylsworth. These individuals have each signed a sworn affidavit removing themselves from all considerations in connection with the purchase of the Minority Interest by the Training Plan from the Pension Plan.

2. The Property consists of a two-story commercial office building located at 4675 Viewridge Avenue, San Diego, California. The Property consists of a land area of 77,101 gross sq. ft. and a building area of 31,435 gross sq. ft.

Title to the Property is jointly held, with the Training Plan having a 77.6475% interest and the Pension Plan having a 22.3525% interest.[7] The land relating to the Property was purchased by the Plans in August, 1981, from Booth Enterprises, Inc., an unrelated party, for a total of $810,168. The Pension Plan and the Training Plan subsequently held the land as tenants-in-common, with a view to developing the land to provide administrative offices for both Plans, as well as training facilities for the Training Plan. The building was constructed in 1983, with the majority of the cost ultimately paid by the Training Plan, based upon its percentage interest in the Property.

The Property is the location of the classrooms and administrative offices of the Training Plan, as well as the administrative offices for the Pension Plan and the San Diego Electrical Health and Welfare Trust (the Health Plan). The Health Plan, like the Pension Plan and the Training Plan, is a multiple employer plan that covers members of Local 569. The Pension Plan has been leasing office space in the Property to its sister plans (i.e., the Training Plan and the Health Plan).[8]

3. The Property has been appraised by Lipman Stevens Marshall & Thene, Inc. (Lipman, Inc.), a qualified, independent appraiser. Mr. Walter J. Stevens, MAI and Vincent G. Ferrer, of Lipman, Inc., are both certified real estate appraisers in the State of California. Utilizing the sales comparison and the income capitalization approaches to value the Property, Messrs. Stevens and Ferrer concluded that the fair market value of the Property was $2,000,000, as of August 1, 1997.

The Minority Interest in the Property has been appraised by American Realty

[7] The Department expresses no opinion herein as to whether the joint ownership of the Property by the Pension Plan and the Training Plan may have violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act.

[8] Prohibited Transaction Class Exemption (PTCE) 77–10 (42 FR 33918, July 1, 1977) provides an exemption, under certain conditions, from section 406(b)(2) of the Act for the leasing of office space by a multiple employer plan to another such plan with common trustees. No individual exemptive relief is proposed herein for the leasing of office space in the Property by the Pension Plan to the Training Plan and the Health Plan. It is represented that such leasing has been done in accordance with the conditions of PTCE 77–10. However, the Department expresses no opinion herein as to whether the conditions of PTCE 77–10 have been satisfied.

Advisors (ARA), the Pension Plan's real estate investment manager.[9] ARA concluded that the fair market value of the Minority Interest was $415,756.50, as of November 11, 1997. ARA first determined a value of $2,000,000 for the Property overall, utilizing the following approaches (but giving greatest weight to the first as most accurate): (1) Discounted cash flow analysis; (2) direct capitalization analysis; and (3) sales comparison analysis. With respect to the Minority Interest, ARA applied a 7% discount factor to reflect its illiquidity and derived a value for the Minority Interest as follows.

Property Value	$2,000,000
Less: 7% Discount	(140,000)
	1,800,000
22.3525% Minority Interest ..	415,756.50

In its report, ARA explains that a discount factor must be applied because investors typically wish to purchase a controlling interest in real estate, not minority positions, and the majority owner is the most logical purchaser of a minority interest. Thus, ARA concludes that the 7% discount is appropriate in a purchase of the Minority Interest by the Training Plan, as the majority owner of the Property, and no premium would be associated with such purchase.

Mr. Stevens, of Lipman, Inc., reviewed ARA's report and, in a letter to the Department dated March 20, 1998, confirmed that the valuation methodology used and the fair market value arrived at by ARA for the Minority Interest was fair and reasonable.

4. It is proposed that the Pension Plan and the Training Plan enter into a transaction wherein the Training Plan will purchase for cash all of the Minority Interest in the Property held by the Pension Plan. The purchase price will be an amount equal to the fair market value of the Minority Interest ($415,756.50, as of November 11, 1997) as of the date of the sale, based on an updated independent appraisal. Neither the Pension Plan nor the Training Plan will pay any commissions or fees in connection with the transaction.

The trustees of both Plans, other than their common trustees, have reviewed the terms and conditions of the transaction and determined that such terms and conditions are in the best interests of, and appropriate for, their respective Plans. The Pension Plan trustees desire to divest the Pension Plan of its otherwise illiquid Minority Interest, while the Training Plan trustees desire to acquire the Minority Interest so that the Training Plan will have total ownership and control of the Property, over 80% of whose space the Training Plan occupies.

5. The Pension Plan's real estate investment manager, ARA, not only has appraised the fair market value of the Minority Interest but, in its report dated November 11, 1997, has expressed its approval of the proposed sale, which is consistent with ARA's investment strategy of ultimately liquidating all of the Pension Plan's direct real estate investments. ARA has determined that due to the size of the Pension Plan and its ongoing need for liquidity, direct investments in real estate are not appropriate for the Pension Plan in the long term. ARA is monitoring the three major real estate assets that it manages for the Pension Plan to time their disposition. Given the even greater illiquidity of a minority interest in real estate, ARA has concluded that the Training Plan should take advantage of this opportunity to sell its Minority Interest in the Property at fair market value to the majority owner.

6. Amresco Advisors, Inc. (Amresco), a registered investment advisor, has been retained to act as an independent fiduciary to represent the Training Plan's interests with respect to the proposed purchase. Amresco represents that it has extensive experience as a fiduciary under the Act and that it is knowledgeable as to the subject transaction. Amresco acknowledges and accepts its duties, liabilities, and responsibilities in acting as a fiduciary with respect to the Training Plan.

Amresco, in its report dated March 27, 1998, has expressed its approval of the proposed purchase because, as explained in detail below, it will immediately provide the Training Plan with an excellent return on its investment, as well as securing the additional space in the Property that will be needed in the future for expansion.

Amresco has reviewed the appraisal of Lipman, Inc. and concurs with their conclusion as to the fair market value of $2,000,000 for the Property. Amresco has also reviewed the ARA report and concurs with their valuation methodology and their conclusion as to the fair market value of $415,756.50 for the Minority Interest.

Amresco notes that with real estate, the whole is more than the sum of its parts. Because of the extremely limited marketability of an undivided interest (as opposed to an outright, or whole interest) in real estate, the Training Plan is able to purchase the Pension Plan's Minority Interest at a 7% discount from its proportionate value of the total fee interest in the Property, an economic value that would immediately accrue to the Training Plan.

In addition, Amresco notes that the Training Plan's space requirements exceed its approximately 78% proportionate share of the Property. Thus, the Training Plan currently must lease an additional 1,900 sq. ft. in the Property from the Pension Plan [10] at the rate of $1,400/mo., or $16,800/yr. This lease rate is projected to increase soon to approximately $2000/mo., or $24,000/yr. The Training Plan will require even more space in the future to accommodate an expanding student body, at ever-increasing rents.

Following the Training Plan's purchase of the Minority Interest, no immediate change will occur with respect to occupancy of space in the Property. The Training Plan has no re-development plans for the Property and, thus, will incur no significant additional expenses, in connection with the proposed transaction. It is intended that the Training Plan will lease approximately 4,800 sq. ft. of the Property to the Pension Plan until such time as the Training Plan needs to fully utilize this space. The Pension Plan, in turn, will sublease a portion of its space to the Health Plan.[11] At rental rates of approximately $1.05/sq. ft./mo. and $.35/sq. ft./mo., the lease will generate approximately $3,350/mo., or $40,320/yr., in net rental income to the Training Plan.

Thus, Amresco states that the combination of a projected $24,000/yr. savings in rent, plus $40,320/yr. in net rental income, or $64,320/yr., will provide an immediate 15% return on the Training Plan's $415,756.50 investment. In addition, the Training Plan, instead of being a renter, will enjoy the benefits of equity ownership in real estate, such as any appreciation in value.

In anticipation of the proposed transaction, the collective bargaining parties have designated new money of $0.37 per hour worked to fund the purchase price for the Minority Interest. Since the purchase price is being

[9] It is represented that ARA is a ''qualified professional asset manager'' (QPAM), as defined in PTCE 84–14 (49 FR 9494, March 13, 1984), for the Pension Plan. PTCE 84–14, a/k/a the QPAM Class Exemption, permits, under certain conditions, parties in interest to engage in various transactions with plans whose assets are managed by persons, defined for purposes of the exemption as QPAMs, which are independent of the parties in interest (with certain limited exceptions) and which meet specified financial standards.

[10] See Footnote 1 regarding PTCE 77–10.

[11] It is represented that the proposed lease of office space in the Property by the Training Plan to the Pension Plan, if the exemption is granted, as well as the sublease of office space by the Pension Plan to the Health Plan, will meet the conditions for exemptive relief under PTCE 77–10.

specially funded by an increase in the contribution rate to the Training Plan required to be met by contributing employers, Amresco states that the Training Plan will have sufficient cash available to purchase the Minority Interest without affecting the ordinary operational costs and liquidity needs of the Training Plan.

Amresco, as the independent fiduciary for the Training Plan, will monitor the proposed transaction and take whatever actions necessary to safeguard the interests of the Training Plan.

7. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons:

(a) The purchase will be a one-time transaction for cash; (b) the terms and conditions of the transaction will not be less favorable to either Plan than those each could obtain in a comparable arm's length transaction with an unrelated party; (c) the Training Plan will pay no more, and the Pension Plan will receive no less, than the fair market value of the Minority Interest, as of the date of the transaction, as determined by a qualified, independent appraiser; (d) neither the Pension Plan nor the Training Plan will pay any commissions or fees in connection with the transaction; (e) the trustees of the Plans (other than their common trustees), the Pension Plan's real estate investment manager (i.e., ARA), and a qualified, independent fiduciary (i.e., Amresco) representing the Training Plan, have reviewed the terms and conditions of the transaction and determined that such terms and conditions are in the best interests of, and appropriate for, their respective Plans; and (f) Amresco will monitor the proposed transaction and take whatever actions necessary to safeguard the interests of the Training Plan.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the epartment, telephone (202) 219–8881. (This is not a toll-free number.)

Hanson Operating Company, Inc. Defined Benefit Pension Plan (the Plan) Located in Roswell, New Mexico

[Application No. D–10702]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of certain closely-held stock (the Stock) to Douglas L. McBride and Basil R. Willis, parties in interest with respect to the Plan, provided that the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) the Plan pays no commissions nor other expenses relating to the sale; and (c) the Plan receives an amount that is no less than the fair market value of the Stock as of the date of the sale, as determined by a qualified, independent appraiser.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan established by Hanson Operating Company, Inc. (the Employer). The Employer, a New Mexico corporation, is engaged in the business of oil and gas exploration and is located in Roswell, New Mexico. As of June 30, 1998, the Plan had 12 participants and beneficiaries and total assets of approximately $808,183.01. The trustees of the Plan are Mr. McBride and Mr. Willis (the Applicants), who are also officers of the Employer.

2. Among the assets of the Plan is the Stock, which consists of 7,500 shares of common stock of Commerce Bankshares of Roswell Inc. (CBR), a closely-held one-bank holding company organized under the laws of the State of New Mexico. CBR's subsidiary bank is the Valley Bank of Commerce (the Bank), a state-chartered commercial bank. The Applicants represent that they acquired 7,500 shares of the Stock for the Plan in 1992 in a limited offering at $20 per share, for a total cost of $150,000. Neither of the Applicants was or is related to CBR or the Bank.

3. The Stock was appraised by Patten, MacPhee & Associates, Inc. (Patten, MacPhee), a qualified, independent appraiser located in Denver, Colorado that performs annual valuations of the Stock. In a cover letter dated August 25, 1998, accompanying the appraisal report, Ms. E. Jayne MacPhee and Mr. Gary M. Schwartz state that their firm has performed over 200 common stock and intangible asset valuations for clients nationwide.

The appraisal states that as of June 30, 1998, the 151,218 shares of common stock of CBR issued and outstanding were held by 60 shareholders, and the Plan owned 7,500 shares of the Stock, or approximately 4.96%. As of June 30, 1998, the 7,500 shares of the Stock had an estimated fair market value of approximately $76.30 per share, or a total value of $572,250, which represents approximately 71% of the assets of the Plan.[12]

Patten, MacPhee performed another appraisal of the Stock's value, as of December 31, 1998, for purposes of the Plan's annual report. As of December 31, 1998, there were 149,208 shares of common stock of CBR issued and outstanding, which were held by 57 shareholders. As of that date, the 7,500 shares of the Stock had an estimated fair market value of approximately $80.95 per share, or a total value of $607,125.

Each appraisal states, in regard to the valuation methodology, that a number of documents and information sources were considered, as well as the elements for the valuation of corporate stock as set forth in the Internal Revenue Service's Revenue Ruling 59–60. Such valuation elements included: the financial condition of both the Bank and CBR; strengths of current management, market share, economic conditions, and competitive factors; the fair market value of the underlying assets and liabilities of the Bank and CBR; historical and projected earnings; and sales of other banks and bank holding company stock within the southwestern United States. The appraisals state that, inasmuch as the Bank represents the only significant asset and activity of CBR, many of the foregoing factors were considered solely in regard to the Bank. In addition, since much of the published information utilized in valuation relates to the transfer of control, the appraisals focussed on those issues which influence the market values of minority interests, namely marketability, liquidity risk, and lack of control.

4. The Applicants propose to purchase 5,500 of the 7,500 shares of the Stock held by the Plan for the fair market value of the Stock as of the date of the sale, based upon an updated independent appraisal. Mr. McBride proposes to purchase 3,000 shares of the Stock, and Mr. Willis proposes to purchase 2,500 shares of the Stock. Based upon an appraised value for the Stock, as of December 31, 1998, of

[12] The Department expresses no opinion herein as to whether the Plan's acquisition and holding of the Stock violated any of the general fiduciary responsibility provisions of Part 4 of Title I of the Act. However, the Department notes that section 404(a) of the Act requires, among other things, that a plan fiduciary act prudently and solely in the interest of the plan's participants and beneficiaries when making investment decisions on behalf of the plan. Section 404(a) of the Act also requires that a plan fiduciary diversify the investments of a plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

$80.95 per share, 5,500 shares of the Stock have a total value of $445,225. The sale will be a one-time transaction for cash, and the Plan will pay no commissions nor other expenses relating to the sale.

The Applicants represent that following a large benefit distribution made by the Plan in 1993, the proportion of Plan assets represented by the Stock rose to 28%. At that time, the Applicants, as trustees of the Plan, determined that future contributions due to the Plan from the Employer, plus dividends paid on the Stock, would keep the assets of the Plan diversified and provide the liquidity needed to make benefit payments. However, the Stock has appreciated so much over the last few years that the Plan has been fully funded, and no additional Employer contributions have been allowed.

Although the Stock has been a good investment for the Plan, the Applicants, as Plan trustees, have determined that the proposed sale of 5,500 shares of the Stock is in the best interests of, and appropriate for, the Plan because such sale will enhance the liquidity and diversification of the assets of the Plan. In addition, the sale will reduce the risk of loss to the Plan in the event that the market value of the Stock should decline in the future, or in the event that the Stock, because it is not publicly traded, cannot be sold expeditiously when the Plan requires the funds to make benefit payments, forcing a distress sale in order to generate cash. Finally, the Applicants, as Plan trustees, have determined that the continued holding by the Plan of the remaining 2,000 shares of the Stock will not adversely affect the Plan's liquidity needs.

5. In summary, the Applicants represent that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (a) the sale will be a one-time transaction for cash; (b) the Plan will pay no commissions nor other expenses relating to the sale; (c) the Plan will receive an amount that is no less than the fair market value of the Stock as of the date of the sale, as determined by a qualified, independent appraiser; and (d) the sale will enhance the liquidity and diversification of the assets of the Plan, as well as reduce the risk of loss to the Plan, in the event that the market value of the Stock should decline in the future.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 19th day of April, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–10104 Filed 4–21–99; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training; Homeless Veterans' Reintegration Project Competitive Grants for Rural Areas

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training.

ACTION: Notice of availability of funds and solicitation for grant applications for Rural Homeless Veterans Reintegration Projects (SGA 99–02).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. All applicants for grant funds should read this notice in its entirety. The U.S. Department of Labor, Veterans' Employment and Training Service (VETS) announces a grant competition for Rural Homeless Veterans Reintegration Projects (HVRP) authorized under the Stewart B. McKinney Homeless Assistance Act. Such projects will assist eligible veterans who are homeless by providing employment, training, supportive and transitional housing assistance where possible. Under this solicitation, VETS expects to award up to five grants in FY 1999.

This notice describes the background, the application process, description of program activities, evaluation criteria, and reporting requirements for Solicitation of Grant Applications (SGA) 99–02. VETS anticipates that up to $300,000 will be available for grant awards under this SGA.

The information and forms contained in the Supplementary Information Section of this announcement constitute the official application package for this Solicitation. In order to receive any amendments to this Solicitation which may be subsequently issued, all applicants must register their name and address with the Procurement Services Center. Please send this information as soon as possible, Attention: Grant Officer, to the following address: U. S. Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Please reference SGA 99–02.

DATES: One (1) ink-signed original, complete grant application (plus three (3) copies of the Technical Proposal and three (3) copies of the Cost Proposal shall be submitted to the U.S. Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210, not later than 4:45 p.m., Eastern Standard Time, May 24, 1999, or be postmarked by the U.S. Postal Service on or before that date. Hand delivered applications must be received by the Procurement Services Center by that time.

ADDRESSES: Applications shall be mailed to the U.S. Department of Labor, Procurement Services Center, Attention: Lisa Harvey, Reference SGA 99–02, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 219–6445 [not a toll free number].

SUPPLEMENTARY INFORMATION:

RURAL HOMELESS VETERANS REINTEGRATION PROJECT SOLICITATION

I. Purpose

The U.S. Department of Labor (DOL), Veterans' Employment and Training Service (VETS) is requesting grant applications for the provision of employment and training services in accordance with Title VII, Subtitle C, Section 738 of the Stewart B. McKinney Homeless Assistance Act (MHAA), 42 U.S.C. 11448. These instructions contain general program information, requirements and forms for application for funds to operate a Rural Homeless Veterans Reintegration Project (HVRP).

II. Background

The Stewart B. McKinney Homeless Assistance Act of 1987, enacted on July 22, 1987, under Title VII, Subtitle C, Section 738 provides that ''The Secretary shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force.'' This program was reauthorized under Section 621 of the McKinney Homeless Assistance Amendments Act of 1990 (Pub. L. 101–645) for an additional three years, i.e., through FY 1993. Under the Homeless Veterans Comprehensive Service Programs Act of 1992 (Pub. L. 102–590—enacted on November 10, 1992) the Homeless Veterans Reintegration Project was reauthorized through Fiscal Year 1995. However, the program was rescinded in FY 1995. Pub. L. 104–275, dated October 9, 1996, was amended to reauthorize the program through FY 1998. Public Laws 105–41 and 105–114, enacted in 1997, extend the program through FY 1999.

The Homeless Veterans Reintegration Project was the first nationwide Federal program that focused on placing homeless veterans into jobs. In accordance with the MHAA, the Assistant Secretary for Veterans' Employment and Training (ASVET) is making approximately $300,000 of the funds available to award grants for HVRPs in rural areas in FY 1999 under this competition. Projects are expected to provide valuable information on approaches that work in a rural environment.

III. Application Process

A. Rural Areas

Under this announcement, applications will be accepted from eligible applicants (as defined in Section B. Of this part), to serve homeless veterans in rural areas.

The Census Bureau has defined ''urban'' for the 1990 census, and territory, population, and housing units not classified as urban constitute ''rural.'' Most specifically, ''urban'' consists of territory, persons, and housing units in:

1. Places of 2,500 or more persons incorporated as cities, villages boroughs (except in Alaska and New York), and towns (except in the six New England States, New York, and Wisconsin), but excluding the rural portions of ''extended cities.''

2. Census designated places of 2,500 or more persons.

3. Other territory, incorporated or unincorporated, included in urbanized areas.

Those not constituted as ''urban'' likely fall into the category or ''rural.'' Potential applicants are referred to the Geography Division, U.S. Bureau of the Census, Washington, DC 20233, for any questions or clarification on the Census Bureau's definition. It is expected that an applicant's submission under this solicitation will clearly demonstrate the rural nature of the area to be served.

B. Eligible Applicants

Applications for funds will be accepted from State and local public agencies, Private Industry Councils, and nonprofit organizations as follows:

1. Private Industry Councils (PICS) as defined in Title I, Section 102 of the Job Training Partnership Act (JTPA), Public Law 97–300, are eligible applicants, as well as State and local public agencies. ''Local public agency'' refers to any public agency of a general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers. (This typically refers to cities and counties.) A State agency may propose in its application to serve one or more of the potential jurisdictions located in its State. This does not preclude a city or county agency from submitting an application to serve its own jurisdiction. (Although cities are mentioned in the above explanation, this solicitation is limited to cities within a rural jurisdiction.)

Applicants are encouraged to utilize, through subgrants, experienced public agencies, private nonprofit organizations, and private businesses which have an understanding of the unemployment and homeless problems of veterans, a familiarity with the area to be served, and the capability to effectively provide the necessary services.

2. Also eligible to apply are nonprofit organizations who have operated an HVRP or similar employment and training program for the homeless or veterans; or have proven capacity to manage Federal grants; and have or will provide the necessary linkages with other service providers. Nonprofit organizations will be required to submit with their application recent (within one year) financial audit statements that attest to the financial responsibility of the organization.

Entities described in Section 501(c)4 of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement. The Lobbying Disclosure Act of 1995, Public Law No. 104–65, 109 Stat. 691, prohibits the award of Federal funds to these entities if they engage in lobbying activities.

C. Funding Levels

The total amount of funds available for this solicitation is $300,000. It is anticipated that up to 5 awards will be made under this solicitation. Awards are expected to range from $50,000 to $75,000. The Federal government reserves the right to negotiate the amounts to be awarded under this competition. Please be advised that requests exceeding this range by 15% or more will be considered non-responsive.

D. Period of Performance

The period of performance will be for one year from date of award. It is expected that successful applicants will commence program operations under this solicitation on or before July 1, 1999. Actual start dates will be

negotiated with each successful applicant.

E. Late Proposals

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Office of Procurement Services after 4:45 pm EST, May 24, 1999, will not be considered unless it is received before the award is made and:

1. it was sent by registered or certified mail not later than the fifth calendar day before May 24, 1999;

2. it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

3. it was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 pm at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to May 24, 1999.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by telegram or facsimile (FAX) will not be accepted.

F. Submission of Proposal

A cover letter, and an original and three (3) copies of the proposal shall be submitted. The proposal shall consist of two (2) separate and distinct parts:

Part I—Technical Proposal shall consist of a narrative proposal that demonstrates the applicant's knowledge of the need for this particular grant program, its understanding of the services and activities proposed to alleviate the need and its capabilities to accomplish the expected outcomes of the proposed project design. The technical proposal shall consist of a narrative not to exceed fifteen (15) pages double-spaced, typewritten on one side of the paper only. Charts and exhibits are not counted against the page limit. Applicants should be responsive to the Rating Criteria contained in Section VI and address all of the rating factors noted as thoroughly as possible in the narrative. The following format is strongly recommended:

1. Need for the project: the applicant should identify the geographical area to be served and the rural characteristics of the area; provide an estimate of the number of homeless veterans and their needs, poverty and unemployment rates in the area, and gaps in the local community infrastructure the project would fulfill in addressing the employment and other barriers of the targeted veterans. Include the outlook for job opportunities in the service area.

2. Approach or strategy to increase employment and job retention: The applicant should describe the specific supportive services and employment and training services to be provided under this grant and the sequence or flow of such services. Participant flow charts may be provided. Include a description of the relationship with other employment and training programs such as Disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER) program, and programs under the Job Training Partnership Act. Please include a plan for follow up of participants who entered employment at 30 and 90 days and the capacity to assist the Department of Labor in one-year and/or multi-year follow up efforts. (See discussion on results in Section V. D.) Please include the chart of proposed performance goals and planned expenditures listed in Appendix D. Although the form itself is not mandatory, the information called for in Appendix D must be provided by the applicant.

3. Linkages with other providers of employment and training services to the homeless and to veterans: Describe what linkages this program will have with other providers of services to veterans and to the homeless in the community outside of the HVRP grant. List the types of services provided by each. Note the type of agreement in place if applicable. Linkages with the workforce development system [inclusive of JTPA and State Employment Security Agencies (SESAs)], non-profit organizations and public agencies (i.e., the Department of Housing and Urban Development and with the Department of Veterans Affairs) resources should be delineated.

4. Organizational capability in providing required program activities: The applicant's relevant current or prior experience in operating employment and training or related programs serving the homeless or veterans should be delineated. Provide information denoting outcomes of past programs in terms of enrollments and placements or other measures of success. Applicants who have operated an HVRP program, or more recent Homeless Veterans Employment and Training (HVET) program should include final or most recent technical performance reports. (This information is subject to verification by the Veterans' Employment and Training Service.) Provide evidence of key staff capability. Non-profit organizations should submit evidence of satisfactory financial management capability including recent financial and/or audit statements.

5. Proposed housing strategy for homeless veterans: Describe how housing resources for homeless veterans in the rural area may be obtained or accessed. These resources may be from linkages or sources other than the HVRP grant such as HUD, community housing resources, DVA leasing or other programs. The applicant should explain whether HVRP resources will be used and why this is necessary.

Part II—Cost Proposal shall contain the Standard Form (SF) 424, ''Application for Federal Assistance,'' and the Budget Information Sheet in Appendix B. In addition the budget shall include—on a separate page(s)—a detailed cost break-out of each line item on the Budget Information Sheet. Please label this page or pages the ''Budget Narrative.'' Also to be included in this Part is the Assurance and Certification Page, Appendix C. Copies of all required forms with instructions for completion are provided as appendices to this solicitation. The Catalog of Federal Domestic Assistance number for this program is 17.805, which should be

entered on the SF 424, Block 10. In Block 11, please enter the following: Homeless Veterans Reintegration Project (RURAL). Please show leveraged resources/matching funds and/or the value of in-kind contributions in Section B of the Budget Information Sheet.

Budget Narrative Information

As an attachment to the Budget Information Sheet, the applicant must provide at a minimum, and on separate sheet(s), the following information:

(a) A breakout of all personnel costs by position, title, salary rates and percent of time of each position to be devoted to the proposed project (including subgrantees);

(b) An explanation and breakout of fringe benefit rates and associated charges. Rates exceeding 35% of salaries and wages require justification;

(c) An explanation of the purpose and composition of, and method used to derive the costs of each of the following: travel, equipment, supplies, subgrants/ contracts and any other costs. The applicant should include costs of any required travel described in this Solicitation. Mileage charges shall not exceed 31 cents per mile;

(d) Description/specification of and justification for equipment purchases, if any. Tangible, non-expendable, personal property having a useful life of more than one year and a unit acquisition cost of $5,000 or more per unit must be specifically identified; and

(e) Identification of all sources of leveraged or matching funds and an explanation of the derivation of the value of matching/in-kind Services.

IV. Participant Eligibility

To be eligible for participation under HVRP, an individual must be homeless and a veteran defined as follows:

A. The term ''homeless or homeless individual'' includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for individuals intended to be institutionalized; or a private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. (Reference 42 U.S.C. 11302).

B. The term ''veteran'' means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable. [Reference 38 U.S.C. 101(2)]

V. Project Summary

A. Program Concept and Emphasis

The HVRP grants under Section 738 of the Stewart B. McKinney Homeless Assistance Act are intended to address dual objectives:

Provide services to assist in reintegrating homeless veterans into the labor force; and stimulate the development of effective service delivery systems that will seek to address the complex problems facing homeless veterans. These programs are designed to be flexible in addressing the universal as well as local or regional problems barring homeless veterans from the workforce. The program in FY 1999 will continue to strengthen the provision of comprehensive services through a case management approach, the attainment of housing resources for veterans entering the labor force, and strategies for employment and retention.

B. Required Features

1. The HVRP has since its inception featured an outreach component consisting of veterans who have experienced homelessness. In recent years this requirement was modified to allow the projects to utilize formerly homeless veterans in other positions where there is direct client contact if outreach was not needed extensively, such as counseling, peer coaching, intake and follow up. This requirement applies to projects funded under this solicitation.

2. Projects will be required to show linkages with other programs and services which provide support to homeless veterans. Coordination with the Disabled Veterans' Outreach Program (DVOP) Specialists in the jurisdiction is imperative.

3. Projects will be ''employment focused.'' That is, they will be directed towards (a) increasing the employability of homeless veterans through providing for or arranging for the provision of services which will enable them to work; and (b) matching homeless veterans with potential employers.

C. Scope of Program Design

The HVRP project design should provide or arrange for the following services:

—Outreach, intake, assessment, counseling and employment services. Outreach should, to the degree practical, be provided at shelters, day centers, soup kitchens, and/or other locations particular to the rural environment, and other programs for the homeless. Program staff providing outreach services are to be veterans who have experienced homelessness

Coordination with veterans' services programs and organizations such as:

—Disabled Veterans' Outreach Program (DVOP) Specialists and Local Veterans' Employment Representatives (LVERs) in the State Employment Security/Job Service Agencies (SESAs) or in the newly instituted workforce development system's One-Stop Centers, JTPA Title IV, Part C (IV–C) Veterans' Employment Program
—Department of Veterans' Affairs (DVA) services, including its Health Care for Homeless Veterans, Domiciliary and other programs, including those offering transitional housing
—Department of Housing and Urban Development (HUD) services, including its Per Diem Grants program
—Veteran service organizations such as The American Legion, Disabled American Veterans, and the Veterans of Foreign Wars, Vietnam Veterans of America, and the American Veterans (AMVETS)

Referral to necessary treatment services, rehabilitative services, and counseling including, but not limited to:

—Alcohol and drug
—Medical
—Post Traumatic Stress Disorder
—Mental Health
—Coordinating with MHAA Title VI programs for health care for the homeless

Referral to housing assistance provided by:

—Local shelters
—Federal Emergency Management Administration (FEMA) food and shelter programs
—Transitional housing programs and single room occupancy housing programs funded under MHAA Title IV
—Permanent housing programs for the handicapped homeless funded under MHAA Title IV
—Department of Veterans' Affairs programs that provide for leasing or sale of acquired homes to homeless providers
—Transitional housing leased by HVRP funds (HVRP funds cannot be used to purchase housing)

Employment and training services such as:

—Basic skills instruction
—Basic literacy instruction
—Remedial education activities
—Job search activities
—Job counseling
—Job preparatory training, including resume writing and interviewing skills

—Subsidized trial employment (Work Experience)
-On-the-Job Training
—Classroom Training
—Job placement in unsubsidized employment
—Placement follow up services
—Services provided under JTPA Program Titles

D. Results-Oriented Model

Based on past experience of grantees working with this target group, a workable program model evolved which is presented for consideration by prospective applicants. No model is mandatory, and the applicant should design a program that is responsive to local needs, but will carry out the objectives of the HVRP to successfully reintegrate homeless veterans into the workforce.

With the advent of implementing the Government Performance and Results Act (GPRA), Congress and the public are looking for results rather than process. While entering employment is a viable outcome, it will be necessary to measure results over a longer term to determine the success of programs. The following program discussion emphasizes that followup is an integral program component.

The first phase of activity consists of the level of outreach that is necessary in the community to reach veterans who are homeless. This may also include establishing contact with other agencies that encounter homeless veterans such as shelters, soup kitchens and other facilities in the rural area. An assessment should be made of the supportive and social rehabilitation needs of the client and referral may take place to services such as drug or alcohol treatment or temporary shelter. When the individual is stabilized, the assessment should focus on the employability of the individual and they are enrolled into the program if they would benefit from pre-employment preparation such as resume writing, job search workshops, related counseling and case management, and initial entry into the job market through temporary jobs, sheltered work environments, or entry into classroom or on-the-job training. Such services should also be noted in an Employability Development Plan so that successful completion of the plan may be monitored by the staff.

Entry into full-time employment or a specific job training program should follow in keeping with the objective of HVRP to bring the participant closer to self-sufficiency. Transitional housing may assist the participant at this stage or even earlier. Job development is a crucial part of the employability process. Wherever possible, DVOP and LVER staff should be utilized for job development and placement activities for veterans who are ready to enter employment or who are in need of intensive case management services. Many of these staff have received training in case management at the National Veterans' Training Institution and have as a priority of focus, assisting those most at a disadvantage in the labor market. VETS urges working hand-in-hand with DVOP/LVER staff to achieve economies of resources.

Follow up to determine if the veteran is in the same or similar job at the 30 day period after entering employment is required and important in keeping contact with the veterans and so that assistance in keeping the job may be provided. The 90 day followup is fundamental to assessing the results of the program interventions. Grantees should be careful to budget for this activity so that followup can and will occur for those placed at or near the end of the grant period. Such results will be reported in the final technical performance report.

VETS emphasizes in its Strategic Plan to implement GPRA that suitable outcomes involve careers, not just jobs. Successful results are achieved when the veteran is in the same or similar job after one or more years. Towards that end, VETS solicits the cooperation of successful applicants in retaining participant information pertinent to a longitudinal follow up survey, i.e., at least for one year after the grant period ends. Retention of records will be reflected in the Special Provisions at time of award.

E. Related HVRP Program Development Activities

1. Community Awareness Activities

In order to promote linkages between the HVRP program and local service providers (and thereby eliminate gaps or duplication in services and enhance provision of assistance to participants), the grantee must provide project orientation and/or service awareness activities that it determines are the most feasible to local providers of hands-on services to homeless, Federal, State and local entitlement services (such as the Social Security Administration, DVA, HUD, and the local Job Service office(s), and civic and private sector groups to enlist their support for the program.

VI. Rating Criteria for Award

Applications will be reviewed by a DOL panel using the point scoring system specified below. Applications will be ranked based on the score assigned by the panel after careful evaluation by each panel member. The ranking will be the primary basis to identify approximately 5 applicants as potential grantees. Although the Government reserves the right to award on the basis of the initial proposal submissions, the Government may establish a competitive range, based upon the proposal evaluation, for the purpose of selecting qualified applicants. The panel's conclusions are advisory in nature and not binding on the Grant Officer. The government reserves the right to ask for clarification or hold discussions, but is not obligated to do so. The Government further reserves the right to select applicants out of rank order if such a selection would, in its opinion, result in the most effective and appropriate combination of funding, demonstration models, and geographical service areas. The Grant Officer's determination for award under SGA 99–02 is the final agency action. The submission of the same proposal from any prior year HVRP or HVET competition does not guarantee an award under this Solicitation.

Panel Review Criteria

1. Need for the Project: 15 Points

The applicant shall document the extent of need for this project, as demonstrated by: (1) the potential number or concentration of homeless individuals and homeless veterans in the proposed project area relative to other similar areas of jurisdiction; (2) the high rates of poverty and/or unemployment in the proposed project area as determined by the census or other surveys; and (3) the extent of gaps in the local infrastructure the program would fill to effectively address the employment barriers which characterize the target population in the rural area.

2. Overall Strategy To Increase Employment and Retention: 30 Points

The application must include a description of the proposed approach to providing comprehensive employment and training services, including job training, job development, placement and post placement follow up services. The supportive services to be provided as part of the strategy of promoting job readiness and job retention should be indicated. The applicant should identify the local human resources and sources of training to be used for participants. A description of the relationship, if any, with other employment and training programs such as SESAs (DVOP and LVER Programs), JTPA IV–C, other JTPA programs, and Workforce Development Boards or entities where in place,

should be presented. It should be indicated how the activities will be tailored or responsive to the needs of homeless veterans in the rural area. A participant flow chart may be used to show the sequence and mix of services.

Note: The applicant MUST complete the chart of proposed program outcomes to include participants served, and job retention. (See Appendix D)

3. Quality and Extent of Linkages With Other Providers of Services to the Homeless and to Veterans: 20 Points

The application should provide information on the quality and extent of the linkages this program will have with other providers of services to benefit the homeless or veterans in the local community outside of the HVRP grant. For each service, it should be specified who the provider is, the source of funding (if known), and the type of linkages/referral system established or proposed. Describe to the extent possible, how the project would fit into the community's approach to respond to homelessness.

4. Demonstrated Capability in Providing Required Program Services: 20 Points

The applicant should describe its relevant prior experience in operating employment and training programs and providing services to participants similar to that which is proposed under this solicitation. Specific outcomes achieved by the applicant should be described in terms of clients placed in jobs, or other outcome measures of success. The applicant must also delineate its staff capability and ability to manage the financial aspects of Federal grant programs. Relevant documentation such as financial and/or audit statements should be submitted (required for applicants who are non-profit agencies). Final or most recent technical reports for HVRP, HVET or other relevant programs should be submitted as applicable. The applicant should also address its capacity for timely startup of the program.

5. Quality of Overall Housing Strategy: 15 Points

The application should demonstrate how the applicant proposes to obtain or access housing resources for veterans in the program and entering the labor force. This discussion should specify the provisions made to access temporary, transitional, and permanent housing for participants through community resources, HUD, lease, HVRP or other means unique to the locale. HVRP funds may not be used to purchase housing.

Applicants can expect that the cost proposal will be reviewed for allowability, allocability, and reasonableness of costs, but will not be scored.

VII. Post Award Conference

A post-award conference for those awarded FY 1999 HVRP funds will be held by the designated Grant Officer Technical Representative (GOTR) within each state. The conference will focus on providing information and assistance on reporting, record keeping, and grant requirements.

VIII. Reporting Requirements

The grantee shall submit the reports and documents listed below:

A. Financial Reports

The grantee shall report outlays, program income, and other financial information on a quarterly basis using SF 269A, Financial Status Report, Short Form. These forms shall cite the assigned grant number and be submitted to the appropriate State Director for Veterans' Employment and Training (DVET) no later than 30 days after the ending date of each Federal fiscal quarter during the grant period. In addition, a final SF 269 shall be submitted no later than 90 days after the end of the grant period.

B. Program Reports

Grantees shall submit a Quarterly Technical Performance Report 30 days after the end of each Federal fiscal quarter to the DVET which contains the following:

1. A comparison of actual accomplishments to established goals for the reporting period and any findings related to monitoring efforts;
2. Reason for slippage if established goals are not met and identification of the corrective action which will be taken to meet the goals, and the timetable for accomplishment of the corrective action.

A final Technical Performance Report will also be required as part of the final report package due 90 days after grant expiration.

C. Summary of Final Report Package

The grantee shall submit 90 days after the grant expiration date the following final report package:

1. Final Financial Status Report
2. Final Technical Performance Report
3. Final Narrative Report—Grantees will be required to submit a final narrative report identifying major successes of the program as well as obstacles to success.

IX. Administrative Provisions

A. Limitation on Administrative and Indirect Costs

1. Direct Costs for administration, plus any indirect charges claimed, may not exceed 20 percent of the total amount of the grant.

2. Indirect costs claimed by the applicant shall be based on a federally approved rate. A copy of the negotiated, approved, and signed indirect cost negotiation agreement must be submitted with the application. (Do not submit the State cost allocation plan.)

3. Rates traceable and trackable through the SESA Cost Accounting System represent an acceptable means of allocating costs to DOL and, therefore, can be approved for use in MHAA grants to SESAS.

4. If the applicant does not presently have an approved indirect cost rate, a proposed rate with justification may be submitted. Successful applicants will be required to negotiate an acceptable and allowable rate with the appropriate DOL Regional Office of Cost Determination within 90 days of grant award.

B. Allowable Costs

Determinations of allowable costs shall be made in accordance with the following applicable Federal cost principles:

State and local government—OMB Circular A–87

Nonprofit organizations—OMB Circular A–122

C. Administrative Standards and Provisions

All grants shall be subject to the following administrative standards and provisions:

29 CFR Part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

29 CFR Part 95—Grants and Agreements with Institutes of Higher Education, Hospitals, and Other Non-Profit Organizations.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

29 CFR Part 30—Equal Employment Opportunity in Apprenticeship and Training.

29 CFR Part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.

Signed at Washington, D.C. this 16th day of April, 1999.

Lawrence J. Kuss,

Grant Officer.

Appendices

Appendix A: Application for Federal Assistance SF Form 424

Appendix B: Budget Information Sheet

Appendix C: Assurances and Certifications Signature Page

Appendix D. Technical Performance Goals Form HVRP Performance Goals Definitions

BILLING CODE 4510–79–U

Appendix A

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application / Construction / Non-Construction; Preapplication / Construction / Non-Construction		2. DATE SUBMITTED	Applicant Identifier
		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION: New / Continuation / Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. PROGRAM IS NOT COVERED BY E.O. 12372

OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

Yes If "Yes," attach an explanation. No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.

Item:	Entry:
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Appendix B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. ***Personnel:*** *Show salaries to be paid for project personnel.*

2. ***Fringe Benefits****: Indicate the rate and amount of fringe benefits.*

3. ***Travel****: Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. ***Equipment****: Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. ***Supplies****: Include the cost of consumable supplies and materials to be used during the project period.*

6. ***Contractual****: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. ***Other****: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. ***Total, Direct Costs****: Add lines 1 through 7.*

9. ***Indirect Costs****: Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. ***Training /Stipend Cost:*** *(If allowable)*

11. ***Total Federal funds Requested****: Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

Appendix C

ASSURANCES AND CERTIFICATIONS - SIGNATURE PAGE

The Department of Labor will not award a grant or agreement where the grantee/recipient has failed to accept the ASSURANCES AND CERTIFICATIONS contained in this section. By signing and returning this signature page, the grantee/recipient is providing the certifications set forth below:

A. Assurances - Non-Construction Programs

B. Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters and Drug-Free/Tobacco-Free Workplace Requirements.

C. Certification of Release of Information

APPLICANT NAME and LEGAL ADDRESS:

If there is any reason why one of the assurances or certifications listed cannot be signed, please explain. Applicant need only submit and return this signature page with the grant application. All other instructions shall be kept on file by the applicant.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL TITLE

APPLICANT ORGANIZATION DATE SUBMITTED

Please Note: This signature page and any pertinent attachments which may be required by these assurances and certifications shall be attached to the applicant's Cost Proposal.

Appendix D

RECOMMENDED FORMAT FOR PLANNED QUARTERLY TECHNICAL PERFORMANCE GOALS

(data entered cumulatively)

Performance Goals

	1ST QTR	2ND QTR	3RD QTR	4TH QTR
Assessments				
Participants Enrolled				
Placed Into Transitional Or Permanent Housing				
Direct Placements Into Unsubsidized Employment				
Assisted Placements Into Unsubsidized Employment				
Combined Placements Into Unsubsidized Employment (Direct & Assisted)				
Cost Per Placement				
Number Retaining Jobs For 30 Days				
Number Retaining Jobs For 90 Days				
Rate of Placement Into Unsubsidized Employment				
Average Hourly Wage At Placement				

Employability Development Services - (As Applicable)

Classroom Training				
On-The-Job Training				
Remedial Education				
Vocational Counseling				
Pre-employment Services				
Occupational Skills Training				
_____				
_____				
_____				
_____				

Planned Expenditures

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
Total Expenditures	$	$	$	$
Administrative Costs	$	$	$	$
Participant Services*	$	$	$	$

*Services may include training and/or supportive.

HVRP PERFORMANCE GOAL DEFINITIONS

1. Assessments. This process includes addressing the supportive services and employability and training needs of individuals before enrolling them in an HVRP program. Generally, this includes an evaluation and/or measurement of vocational interests and aptitudes, present abilities, previous education and work experience, income requirements, addressing supportive service needs, substance abuse treatment needs, counseling needs, temporary or transitional housing needs, personal circumstances and other related services.

2. Participants Enrolled. A client should be recorded as having been enrolled when an intake form has been completed, and services, referral, or employment has been received through the HVRP program. This should be an unduplicated count over the year: i.e., each participant is recorded only once, regardless of the number of times she or he receives assistance.

3. Placed Into Transitional Or Permanent Housing. A placement into transitional or permanent housing should be recorded when a veteran served by the program upgrades his/her housing situation during the reporting period from shelter/streets to transitional housing or permanent housing or from transitional housing to permanent housing. Placements resulting from referrals by HVRP staff shall be counted. This item is however an unduplicated count over the year, except that a participant may be counted once upon entering transitional housing and again upon obtaining permanent housing.

4. Direct Placements Into Unsubsidized Employment. A direct placement into unsubsidized employment must be a placement made directly by HVRP-funded staff with an established employer who covers all employment costs for 20 or more hours per week at or above the minimum wage. Day labor and other very short-term placements should not be recorded as placements into unsubsidized employment.

5. Assisted Placements Into Unsubsidized Employment. Assisted placements into unsubsidized employment should be recorded where the definition for placement with unsubsidized employment above is met, but the placement was arranged by an agency to which the HVRP referred the homeless veteran, such as a Job Training Partnership Act (JTPA) program.

6. Cost Per Placement. The cost per placement into unsubsidized employment is obtained by dividing the total HVRP funds expended by the total of direct placements plus assisted placements.

7. Number Retaining Job For 30 Days. To be counted as retaining a job for 30 days, continuous employment with one or more employers for at least 30 days must be verified and the definition for either direct placement or assisted placement into unsubsidized employment above is met. This allows clients who have moved into a position with a different employer to be recorded as retaining the job for 30 days as long as the client has been steadily employed for that length of time.

8. Number Retaining Job For 90 Days. To be counted as retaining a job for 90 days, continuous employment with one or more employers for at least 90 days must be verified, and the definition for either placement or assisted placement into unsubsidized employment above is met. This allows clients who have moved into a position with a different employer to be recorded as retaining the job for 90 days as long as the client has been steadily employed for that length of time.

9. Rate of Placement Into Unsubsidized Employment. The rate of placement into unsubsidized employment is obtained by dividing the number placed into unsubsidized employment (HVRP), plus the number of assisted placements into unsubsidized employment by the number of clients enrolled.

10. Average Hourly Wage At Placement. The average hourly wage at placement is the average hourly wage rates at placement of all assisted placements plus direct placements.

11. Employability Development Services. This includes services and activities which will develop or increase the employability of the participant. Generally, this includes vocational counseling, classroom and on-the-job training, pre-employment services (such as job seeking skills and job search workshops), temporary or trial employment, sheltered work environments and other related services and activities. Planned services should assist the participant in addressing specific barriers to employment and finding a job. These activities may be provided by the applicant or by a subgrantee, contractor or another source such as the local Job Partnership Training Act program or the Disabled Veterans'Outreach Program (DVOP) personnel or Local Veterans' Employment Representatives (LVERs). Such services are not mandatory but entries should reflect the services described in the application and the expected number of participants receiving or enrolled in such services during each quarter. Participants may be recorded more than once if they receive more than one service.

12. Total Planned Expenditures. Total funds requested. Identify forecasted expenditures needed for each fiscal quarter.

13. Administrative Costs. Administrative costs shall consist of all direct and indirect costs associated with the supervision and management of the program. These costs shall include the administrative costs, both direct and indirect, of subrecipients and contractors.

14. Participant Services. This cost includes supportive, training, or social rehabilitation services which will assist in stabilizing the participant. This category should reflect all costs other than administrative.

[FR Doc. 99–10071 Filed 4–21–99; 8:45 am]
BILLING CODE 4510–79–C

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee

AGENCY: National Communications System (NCS).

ACTION: Notice of meeting.

SUMMARY: A meeting of the President's National Security Telecommunications Advisory Committee will be held on Wednesday, June 9, 1999, from 9:00 a.m. to 11:15 a.m. The Business Session will be held at the Department of State, 2101 C Street NW, Washington, DC. The agenda is as follows:

—Call to Order/Welcoming Remarks.
—Industry Executive Subcommittee Report.
—Critical Infrastructure Protection Briefing.
—Information Assurance Briefing.
—Year 2000 Issue.
—Adjournment.

Due to the potential requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense.

FOR FURTHER INFORMATION CONTACT: Telephone (703) 607–6215 or write the Manager, National Communications System, 701 South Court House Road, Arlington, VA 22204–2198.

Frank McClelland,

Federal Register Liaison Officer, Technology and Standards Division (N6).

[FR Doc. 99–9843 Filed 4–21–99; 8:45 am]

BILLING CODE 5000–03–M

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted final revised annual fee rates for calendar years 1991, 1992, 1993, 1994 and 1995. The rate for 1991 is .704658544% (.00704658544) on both tier 1 and tier 2 revenues; the rate for 1992 is .538274583% (.00538274583) on both tier 1 and tier 2 revenues; the rate for 1993 is .5% (.005) on tier 1 revenues and .392952686% (.00392952686) on tier 2 revenues; the rate for 1994 is .5% (.005) on tier 1 revenues and .34541121% (.0034541121) on tier 2 revenues; the rate for 1995 is .5% (.005) on tier 1 revenues and .221595808% (.00221595808) on tier 2 revenues. These rates shall apply to all class II assessable gross revenues from gaming operations regulated by the Commission.

FOR FURTHER INFORMATION CONTACT: Cindy Altimus, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005; telephone 202/632/7003; fax 202/632/7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 500) provide for a system of fee assessment and payment that is self-administered by the gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the final rates being adopted today are effective for calendar years 1991, 1992, 1993, 1994 and 1995. As a result, the Commission shall credit each gaming operation pro-rata fees collected in excess of $1,500,000 during those years. The Commission will notify each gaming operation as to the amounts of overpayments, if any, and therefore the amounts of credit to be taken against the next quarterly payment(s) otherwise due.

Montie R. Deer,

Chairman.

[FR Doc. 99–10120 Filed 4–21–99; 8:45 am]

BILLING CODE 7565–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend and Revise a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice; comment request.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this data collection with the addition of a Follow-Up Survey administered to eligible institutions from the main study sample, as requested by OMB. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this information collection.

SEND COMMENTS TO: Ms. Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 245, Arlington, Virginia 22230 or send email to splimpto@nsf.gov. Written comments should be received within 60 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Plimpton on (703) 306–1125 x2017. Or send an email to splimpto@nsf.gov. You may also obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title of Collection: 2000 Survey of Scientific and Engineering Research Facilities at Colleges and Universities.

OMB Control Number: 3145–0101.

Proposed Renewal Project: The current National Science Foundation Survey of Scientific and Engineering Research Facilities at Universities and Colleges has been in use for two years. Data were collected from a sample of 365 institutions to examine the status and need for science and engineering research facilities at universities and colleges as directed by Public Law 99–159, and from a sample of 100 nonprofit research organizations and hospitals. It was expected by Congress that this survey would provide data necessary to formulate appropriate solutions to documented needs, as well as provide trend data necessary to evaluate outcomes of approaches that might be implemented. The proposed Follow-Up survey will collect additional information to supplement the original survey data, increasing its usefulness to Federal agencies, policymakers and higher education administrators. Total project construction costs which exceed $25 million per project will be reported and particular space designation measurements (e.g., net assignable square feet) of the building will be identified. Additional questions

regarding special features or conditions which might contribute to prices beyond standard expectations are also included in the survey.

Use of the Information: Analysis of the Facilities survey data will provide updated information on the status of scientific and engineering research facilities. The survey will provide comparable data from which trends can be observed. The information can be used by Federal policy makers, planners, and budget analysts in making policy decisions, as well as by academic officials, the scientific/engineering establishment, and state agencies that fund universities. The Follow-Up Survey data are expected to be used to make more exact and, as a result, more valid jugements concerning the reasonableness of facility costs.

Burden on the Public: The Facilities survey will be sent by mail to approximately 475 academic institutions and 100 nonprofit research organizations and hospitals. The completion time per academic institution is expected to average 24 hours and the completion time per research organization/hospitals is expected to average 5 hours. Assuming a 90% response rate, this would result in an estimated burden of 10,260 hours for academic institutions and 450 hours for nonprofit research organizations/ hospitals.

The screener to the Follow-Up Survey will be sent by e-mail to approximately 70 institutions. The completion time per academic institution is expected to average 30 minutes. Assuming a 90% response rate, the estimated burden would be 32 hours for academic institutions.

The Follow-Up Survey will be sent by mail to the qualifying institutions of which there is expected to be approximately 42. The completion time per academic institution is expected to average 1.5 hours. Assuming a 90% response rate, the estimated burden would be 57 hours for academic institutions.

Dated: April 19, 1999.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 99–10121 Filed 4–21–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

GPU Nuclear, Inc., et al.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear, Inc., et al., (the licensee) to withdraw its November 25, 1998, application as supplemented by letter dated February 12, 1999, for proposed amendment to Facility Operating License No. DPR–50 for the Three Mile Island Nuclear Station, Unit No. 1, located in Dauphin County, Pa.

The proposed amendment would have, in part, extended the Technical Specification (TS) reporting interval in TS 4.19.5 from 90 days to 12 months.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 16, 1998 (63 FR 69342). However, by letter dated February 12, 1999, the licensee withdrew the proposed change request.

For further details with respect to this action, see the application for amendment dated November 25, 1998, as supplemented February 12, 1999, which withdrew that portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Law/ Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, P.O. Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 13th day of April 1999.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10122 Filed 4–21–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 109th meeting on May 11–13, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, May 11, 1999—1:00 P.M. until 6:00 P.M.

Wednesday, May 12, 1999—8:30 A.M. until 6:00 P.M.

Thursday, May 13, 1999—8:30 A.M. until 4:00 P.M.

The following topics will be discussed:

A. *ACNW Planning and Procedures*—The Committee will hear a briefing from its staff on issues to be covered during this meeting. The Committee will also consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

B. *Risk Communications*—The Committee will begin to prepare for an October Working Group meeting on this topic with a number of lead-in presentations. These will include discussions with representatives from other government agencies, private industry, and the National Academy of Sciences, as well as professional risk communication experts. Risk communication initiatives underway within the NRC will also be discussed.

C. *Yucca Mountain Review Plan*—The NRC staff will discuss the strategy for converting the Issue Resolution Status Reports for the proposed high-level waste repository at Yucca Mountain into a review plan for the repository license application.

D. *Preparation of ACNW Reports*—The Committee will discuss planned reports on the following topics: biological effects of low levels of ionizing radiation, a White Paper on Repository Design Issues at Yucca Mountain and other topics discussed during this and previous meetings as the need arises.

E. *Meeting with NRC's Executive Director for Operations (EDO)*—The Committee will meet with the EDO to discuss items of mutual interest.

F. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 29, 1998 (63 FR 51967). In accordance with these procedures, oral

or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Associate Director for Technical Support, ACNW, Dr. Richard P. Savio, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the Associate Director for Technical Support, ACNW, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Dr. Savio as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Dr. Richard P. Savio, Associate Director for Technical Support, ACNW (Telephone 301/415–7363), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. EDT at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: April 16, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–10123 Filed 4–21–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Statement Regarding Contributions and Support.

(2) *Form(s) submitted:* G–134.

(3) *OMB Number:* 3220–0099.

(4) *Expiration date of current OMB clearance:* 6/30/1999.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 100.

(8) *Total annual responses:* 100.

(9) *Total annual reporting hours:* 129.

(10) *Collection description:* Dependency on the employee for one-half support at the time of the employee's death can be a condition affecting eligibility for a survivor annuity provided for under section 2 of the Railroad Retirement Act. One-half support is also a condition which may negate the public service pension offset in Tier I for a spouse or widow(er).

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–10108 Filed 4–21–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension: Rule 15g–2 [17 CFR 240.15g–2], SEC File No. 270–381, OMB Control No. 3235–0434.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The ''Penny Stock Disclosure Rules'' (Rule 15g–2, 17 CFR 240.15g–2) require broker-dealers to provide their customers with a risk disclosure document, as set forth in Schedule 15G, prior to their first non-exempt transaction in a ''penny stock.'' As amended, the rules requires broker-dealers to obtain written acknowledgement from the customer that he or she has received the required risk disclosure document. The amended rule also requires broker-dealers to maintain a copy of the customer's written acknowledgement for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place.

The risk disclosure documents are for the benefit of the customers, to assure that they are aware of the risks of trading in ''penny stocks'' before they enter into a transaction. The risk disclosure documents are maintained by the broker-dealers and may be reviewed during the course of an examination by the Commission. The Commission estimates that there are approximately 270 broker-dealers subject to Rule 15g–2, and that each one of these firms will process an average of three new customers for ''penny stocks'' per week. Thus each respondent will process approximately 156 risk disclosure documents per year. The staff calculates that (a) the copying and mailing of the risk disclosure document should take no more than two minutes per customer, and (b) each customer should take no more than eight minutes to review, sign, and return the risk disclosure document. Thus, the total ongoing respondent burden is approximately 10 minutes per response, or an aggregate total of 1,560 minutes per respondent. Since there are 270 respondents, the annual burden is 421,200 minutes (1,560 minutes per each of the 270 respondents), or 7,020 hours. In addition, broker-dealers will incur a recordkeeping burden of approximately two minutes per response. Thus each respondent will incur a recordkeeping burden of 312 (156 × 2) minutes per

year, and respondents as a group will incur an aggregate annual recordkeeping burden of 1,404 hours (270 × 312/60). Accordingly, the aggregate annual hour burden associated with Rule 15g–2 is 8,424 hours (7,020 + 1,404).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: April 13, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10016 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services, Washington, DC 20549, ''Tell Us How We're Doing!'' SEC File No. 270–406, OMB Control No. 3235–0463.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The title of the questionnaire is ''Tell Us How We're Doing!''

The Commission currently sends the questionnaire to persons who have used the services of the Commission's Office of Investor Education and Assistance. The questionnaire consists mainly of eight (8) questions concerning the quality of services provided by OIEA. Most of the questions can be answered by checking a box on the questionnaire.

The Commission needs the information to evaluate the quality of services provided by OIEA. Supervisory personnel of OIEA use the information collected in assessing staff performance and for determining what improvements or changes should be made in OIEA operations for services provided to investors.

The respondents to the questionnaire are some of those investors who request assistance or information from OIEA. In 1998, for example, the number of investors who responded was 355, or about 4.7 percent.

The total reporting burden of the questionnaire in 1998 was approximately 89 hours. This was calculated by multiplying the total number of investors who responded to the questionnaire times how long it is estimated to take to complete the questionnaire (355 respondents × 15 minutes = 89 hours).

Providing the information on the questionnaire is voluntary, and responses are kept confidential.

Members of the public should be aware that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless a currently valid Office of Management and Budget control number is displayed.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 15, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10017 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23787; 812–11032]

Colchester Street Trust, et al.; Notice of Application

April 15, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the ''Act'') under (i) section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act, (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act, and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order that would supersede an existing order permitting certain registered management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: Colchester Street Trust, Fidelity Aberdeen Street Trust, Fidelity Advisor Emerging Asia Fund Inc., Fidelity Advisor Korea Fund Inc., Fidelity Advisor Series I, Fidelity Advisor Series II, Fidelity Advisor Series III, Fidelity Advisor Series IV, Fidelity Advisor Series V. Fidelity Advisor Series VI, Fidelity Advisor Series VII, Fidelity Advisor Series VIII, Fidelity Beacon Street Trust, Fidelity Boston Street Trust, Fidelity California Municipal Trust, Fidelity California Municipal Trust II, Fidelity Capital Trust, Fidelity Charles Street Trust, Fidelity Commonwealth Trust, Fidelity Concord Street Trust, Fidelity Congress Street Fund, Fidelity Contrafound, Fidelity Court Street Trust, Fidelity Court Street Trust II, Fidelity Covington Trust, Fidelity Destiny Portfolios, Fidelity Devonshire Trust, Fidelity Exchange Fund, Fidelity Financial Trust, Fidelity Fixed-Income Trust, Fidelity Hastings Street Trust, Fidelity Hereford Street Trust, Fidelity Income Fund, Fidelity Investment Trust, Fidelity Magellan Fund, Fidelity Massachusetts Municipal Trust, Fidelity Money Market Trust, Fidelity Mt. Vernon Street Trust, Fidelity Municipal Trust, Fidelity Municipal Trust II, Fidelity New York Municipal Trust, Fidelity New York Municipal Trust II, Fidelity Phillips Street Trust, Fidelity Puritan Trust, Fidelity Revere Street Trust, Fidelity School Street Trust, Fidelity Securities Fund, Fidelity Select

Portfolios, Fidelity Summer Street Trust, Fidelity Trend Fund, Fidelity Union Street Trust, Fidelity Union Street Trust II, Newbury Street Trust, Variable Insurance Products Fund, Variable Insurance Products Fund II, Variable Insurance Products Fund III (collectively, the ''Funds''), and Fidelity Management & Research Company (together with any person controlling, controlled by, or under common control with Fidelity Management & Research Company, ''FMR''), and any other registered open-end management investment companies for which FMR serves as investment adviser.[1]

FILING DATES: The application was filed on February 27, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 10, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 Fifth Street, N.W., Washington DC 20549–0609. Applicants, Fidelity Management & Research Company, 82 Devon shire Street E17B, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser (202) 942–0562, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, DC, 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each of the Funds is registered under the Act as an open-end management investment company. FMR, an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser to the Funds.

2. Applicants have an existing SEC order that permits the Funds to participate in a joint lending and borrowing facility (the ''1990 Order'').[2] FMR administers the credit facility under its existing advisory agreements with the Funds, and does not receive any additional compensation for its administration of the credit facility. Applicants request an order that would supersede the 1990 Order.

3. Applicants state that the credit facility was designed to permit the Funds to lend money to each other for temporary purposes, such as when redemptions exceed anticipated levels. The credit facility was designed to reduce substantially the Funds' borrowing costs and to enhance their ability to earn higher rates of interest on investment of their short-term cash balances. While bank borrowings continue to be a source of liquidity pending the sale and settlement of portfolio securities, the rates charged under the credit facility are normally below those offered by banks on short-term loans, and Funds making loans through the credit facility are able to earn interest at a rate higher than they could obtain from investing their cash in short-term repurchase agreements or jointly through FICASH.[3]

4. When the Funds lend money to and borrow money from each other than the credit facility (''Interfund loans''), interest rates (''Interfund Loan Rates'') are based on the average of the overnight repurchase agreement rate for that day for the Funds' joint account (''FICASH Rate'') and a benchmark rate established periodically to approximate the lowest rate available from at least three banks on loans to the Funds.

5. On each business day, the Cash Management Department of Fidelity Service Company, Inc., the transfer, pricing and bookkeeping agent for most of the Funds, (the ''Cash Management Department'') compares the Interfund Loan Rate with the FICASH Rate negotiated that day and available short-term borrowing rates quoted to any of the Funds by banks with which any Fund has a loan agreement. At least three such quotations will be obtained each day in which any Fund borrows through the credit facility prior to such borrowing. The Cash Management Department will make cash available for Interfund Loans only if the Interfund Loan Rate is more favorable to the lending Fund than the FICASH Rate and more favorable to the borrowing Fund than the lowest quoted back loan rate.

6. The Cash Management Department on each business day collects data on uninvested cash balances and borrowing requirements of all participating Funds from the Funds' custodians. The Cash Management Department will not solicit cash for the facility from any Fund or prospectively publish or disseminate total loan demand data to portfolio managers. No portfolio manager is able to direct that a Fund's cash balances be loaned to any particular Fund or otherwise intervene in the Cash Mangement Department's allocation of loans. A portfolio manager for a money market Fund, however, may decline to enter into a loan if he or she believes the loan is inconsistent with portfolio strategy. The Cash Management Department allocates borrowing cash and cash available for lending among Funds on an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to mininize the number and associated administrative costs of transactions.

7. All Funds whose investment policies and boards of trustees (the ''Boards'') permit, may participate as potential borrowers and/or lenders in the credit facility. The money market Funds typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions. A Fund would not participate as a lender unless it was also eligible to participate in FICASH.

8. No Fund may participate in the credit facility unless: (i) the Fund has obtained shareholder approval for its participation or, if such approval is not required by law, the Fund's prospectus and/or statement of additional information have disclosed at all times the possibility of the Fund's participation in the credit facility upon receipt of requisite regulatory approval; (ii) the Fund has fully disclosed all material information concerning the credit facility in its prospectus and/or

[1] All existing registered investment companies that currently intend to rely on the order have been named as applicants, and any other existing or future registered investment companies that subsequently rely on the order will comply with the terms and conditions in the application.

[2] *In the Matter of Daily Money Fund, et al.,* Investment Company Act Release Nos. 17257 (Dec. 8, 1989) (notice) and 17303 (Jan. 11, 1990) (order).

[3] FICASH was established pursuant to SEC exemptive orders. *In the Mater of Daily Money Fund, et al.,* Investment Company Act Release Nos. 11962 (Sept. 29, 1981) (notice) and 12061 (Nov. 27, 1981) (order); *In the Mater of Daily Money Fund, et al.,* Investment Company Act Release Nos. 19594 (July 26, 1993) (notice) and 19647 (Aug. 23, 1993) (order). Pursuant to these orders, during each trading day, the Funds' cash balances may be deposited in FICASH. FICASH invests these cash balances in one or more large, short-term repurchase agreements. FMR administers FICASH as part of its duties under its existing advisory contract with each of the Funds, and does not charge any additional fee for this service.

statement of additional information; and (iii) the Fund's participation in the credit facility is consistent with its investment objectives, limitations, and/or Declaration of Trust.

9. Applicants seek to amend the 1990 Order to reduce certain administrative burdens associated with the credit facility and give participating Funds greater flexibility consistent with the purposes of the credit facility and investor protection. Applicants state that the anticipated benefits of the 1990 Order have not been realized, primarily because the administrative burdens and related costs of complying with certain conditions of the 1990 Order often made the use of the credit facility inefficient. Applicants assert that modifying these conditions would benefit both those Funds that are borrowers and those Funds that are lenders.

10. The 1990 Order prohibited a Fund from borrowing through the credit facility if the Fund's outstanding borrowings from all sources immediately after the interfund borrowing exceeded 15% of the Fund's total assets. Applicants seek to raise that limit to 33⅓%. Applicants state that this limit would provide greater flexibility in the use of the credit facility consistent with the Act. Applicants also state that the other conditions in the application governing Funds' borrowing through the credit facility (such as the conditions addressing unsecured borrowing) provide adequate safeguards against any misuse of the credit facility.

11. Applicants also seek to modify the condition in the 1990 Order that permitted an equity, taxable bond or money market Fund to lend through the credit facility only if the Fund's aggregate outstanding loans through the credit facility do not exceed 5%, 7.5% and 10%, respectively, of the Fund's net assets at the time of the loan. Applicants seek to permit any type of Fund to make loans through the credit facility in an amount of up to 15% of the Fund's current net assets at the time of the loan. Applicants state that the percentage limitations in the 1990 Order created artificial distinctions that were not related to a Fund's particular circumstances and unnecessarily restricted a Fund's ability to effectively manage its cash balances. Applicants further state that, if a Fund has large cash balances, its ability to invest the cash at a more attractive rate should not be unnecessarily limited.

12. Finally, applicants seek to remove the condition in the 1990 Order that provided that a Fund's borrowing through the credit facility will not exceed 125% of the Fund's total net cash redemptions for the preceding seven calendar days. Applicants assert that this condition is difficult to monitor and ineffective. Applicants state that the condition was designed to protect the Funds from the dangers of borrowing for investment, and the resulting leverage, especially in a declining securities market. Applicants assert that this condition may be ineffective in addressing a Fund's need for cash in the case of unanticipated levels of redemption (such as in the event of a sharp market correction). Applicants also assert that the condition may not necessarily prevent a fund from borrowing from investment. Applicants state that each Fund's fundamental investment limitations provide that the Fund may borrow money only for temporary or emergency purposes and prohibit borrowing for purposes of leverage or investment (except that certain Funds also may engage in reverse repurchase agreements in which the Fund is a seller for any purpose). Applicants assert that this fundamental policy is a more effective safeguard that will prevent inappropriate use of the credit facility. Applicants propose as a condition to the requested order that each Fund borrowing through the facility have this fundamental policy.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(c) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be deemed to be under common control because FMR serves as their common investment adviser.

2. Section 17(d) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Section 6(c) under the Act provides that an exemptive order may be granted where an example is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with potential adverse interests to and influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the credit facility does not raise these concerns because (i) FMR administers the credit facility as a disinterested fiduciary; (ii) the Interfund Loans consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments directly, through FICASH or in affiliated money market funds (''Central Funds'');[4] (iii) the Interfund Loans do not involve a significantly greater risk than such other investments; (iv) the lending Fund would receive interest at a rate higher than it could obtain through such other investments; and (v) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements. Moreover, applicants believe that the other conditions governing the credit facility effectively preclude the possibility of any undue advantage.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1).

5. Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under

[4] *See In the Matter of Daily Money Fund, et al.*, Investment Company Act Release Nos. 22236 (Sept. 20, 1996) (notice) and 22285 (Oct. 16, 1996) (order).

sections 6(c), 17(b) and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

6. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the credit facility does not involve these abuses because there would be no duplicative costs or fees to the Funds or shareholders, and that FMR would receive no additional compensation for its services in administering the credit facility.

7. Section 18(f)(1) prohibits an open-end investment company from issuing any senior security except that the company is permitted to borrow from any bank; provided that immediately after any such borrowing there is an asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks). Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined credit facility and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon such applications, the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned moneys to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. The interest rate to be charged to the Funds under the credit facility will be the average of the current FICASH Rate and a benchmark rate established periodically to approximate the lowest rate available from banks on loans to the Funds.

2. The Cash Management Department on each business day will compare the Interfund Loan Rate set pursuant to the formula calculated as provided in condition 1 with the FICASH Rate negotiated that day and all short-term borrowing rates quoted to any of the Funds by any bank with which any Fund has a loan agreement. At least three such quotations will be obtained each day in which any Fund borrows through the credit facility prior to such borrowing. The Cash Management Department will make cash available for Interfund Loans only if the Interfund Loan Rate is more favorable to the lending Fund than the FICASH Rate and more favorable to the borrowing Fund than the lowest quoted bank loan rate.

3. If a Fund has outstanding borrowings from one or more banks, any Interfund Loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in no event over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan, it will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Loan agreement entitling the lending Fund to call the loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a second loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the credit facility only on a secured basis. A Fund could not borrow through the credit facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceeds 10% of its total assets for any other reason (such as decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until, the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to

maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may loan funds through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 15% of its current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund will be limited to 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. All loans may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

10. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and Declaration of Trust. No Fund may borrow through the credit facility unless the Fund has a fundamental policy that prevents the Fund from borrowing for other than temporary or emergency purposes (and not for leveraging), except that certain Funds may engage in reverse repurchase agreements for any purpose.

11. The Cash Management Department will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among Funds, without the intervention of the portfolio manager of any Fund. The Cash Management Department will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The Cash Management Department will invest amounts remaining after satisfaction of borrowing demand in FICASH or Central Funds or return remaining amounts for investment directly by the portfolio managers of the money market Funds.

12. FMR will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Board concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit thereunder.

13. Each Fund's Board, including a majority of the trustees who are not interested persons of the Funds as defined in section 2(a)(19) of the Act (''Independent Trustees''), will: (a) review, no less frequently than quarterly, the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting such transactions; (b) establish the bank loan rate formula used to determine the interest rate on Interfund Loans, and review, no less frequently than annually, the continuing appropriateness of such benchmark rate formula; and (c) review, no less frequently than annually, the continuing appropriateness of the Fund's participation in the credit facility.

14. In the event an Interfund Loan is not paid according to its terms and such default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Loan agreement, FMR will promptly refer such loan for arbitration to a retired Independent Trustee previously selected by the Board of each Fund, who no longer has any fiduciary responsibilities to any Fund, and who will serve as arbitrator of disputes concerning Interfund Loans. The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Boards setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

15. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and commercial bank borrowings, and such other information presented to the Fund's Board in connection with the review required by conditions 12 and 13.

16. Compliance with the conditions to any order issued on the application will be considered by the external auditors as part of their internal accounting control procedures, performed in connection with Fund audit examinations, which form the basis, in part, of the auditors' report on internal accounting controls in Form N–SAR.

17. No Fund will participate in the credit facility unless it has fully disclosed in its registration statement all material facts abut its intended participation.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10021 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27007]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 16, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Intersted persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 11, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After May 11, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities (70–9342)

Northeast Utilities (''NU''), a registered holding company, located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010 has filed a post-effective amendment under section 12(b) of the Act and rule 45 under the Act.

By order dated November 12, 1998 (HCAR No. 26939) (''Order''), the Commission authorized NU and

NEWCO [1] to, among other things, provide guarantees and similar forms of credit support or enhancements (collectively, ''Guarantee'') to, or for the benefit of, NEWCO, its nonutility subsidiaries, or NU's other to-be-formed direct or indirect energy related companies, as defined in rule 58 under the Act, in an aggregate amount not to exceed $75 million, through December 31, 1999. NU and NEWCO now propose to increase the Guarantee authority from $75 million to $250 million under the terms and conditions of the Order.[2]

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10101 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23789; 812–11424]

The RBB Fund, Inc. and Boston Partners Asset Management, L.P.; Notice of Application

April 16, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 12(d)(1)(G)(i)(II) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a fund of funds relying on section 12(d)(1)(G) of the Act to invest directly in securities and other instruments.

APPLICANTS: The RBB Fund, Inc. (''Company'') and Boston Partners Asset Management, L.P. (''Boston Partners''). The requested order also would extend to any existing or future open-end management investment company or series thereof advised by Boston Partners (an ''Upper Tier Fund'') that wishes to invest in a registered open-end management investment company or series thereof that is advised by Boston Partners and is part of the same ''group of investment companies'' (as defined in section 12(d)(1)(G)(ii) of the Act) (together with the series of the Company excluding the Boston Partners Long-Short Equity Fund, the ''Underlying Funds'') as the investing Upper Tier Fund.[1]

FILING DATES: The application was filed on December 4, 1998 and amended on April 9, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 11, 1999 and should be accompanied by proof of service on the applicants in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549–0609. Applicants, c/o Allan J. Oster, Drinker Biddle & Reath LLP, 1345 Chestnut Street, Philadelphia, PA 19107–3496.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Company, a Maryland corporation, is registered under the Act as an open-end management investment company and organized as a series company (each series a ''Fund'' and collectively, the ''Funds''). Boston Partners is an investment adviser registered under the Investment Advisers Act of 1940 and is the investment adviser for five of the Funds (the ''Boston Partners Funds''), including the Boston Partners Market Neutral Fund (the ''Market Neutral Fund'').[2] Boston Partners also will be the investment adviser for a proposed series of the Company, the Boston Partners Long-Short Equity Fund (the ''Equity Fund'').

2. The Equity Fund will seek a total return greater than that of the Standard and Poor's 500 Composite Stock Price Index by investing in shares of the Market Neutral Fund, while also investing in futures, options on futures, equity swap contracts and other investments (collectively, ''Index Securities''). The Market Neutral Fund seeks long-term capital appreciation while minimizing exposure to general equity market risk, by taking long positions in stocks that Boston Partners has identified as undervalued and short positions in stocks that Boston Markets has identified as overvalued. By investing in shares of the Market Neutral Fund, the Equity Fund seeks to capture the return generated by the ''market neutral strategy'' of the Market Neutral Fund. The Equity Fund and Upper Tier Funds also would like to retain the flexibility to invest, subject to their respective investment restrictions, in other securities and financial instruments (excluding investments in shares of investment companies other than those made in reliance on section 12(d)(1)(G) (collectively, ''Other Securities'').

3. With respect to the Equity Fund and Market Neutral Fund, Boston Partners expects to reduce its advisory fees and bear certain expenses to the extent that each Fund's total annual operating expenses (excluding nonrecurring account fees and extraordinary expenses) exceed a specified percentage of net assets. Any advisory fee that Boston Partners charges to the Equity Fund will be for services that are in addition to, rather than duplicative of, services provided to the Underlying Funds. Neither the Equity Fund's nor the Underlying Funds' shares are subject to a sales charge and the Equity Fund intends to invest only in shares of the Underlying Funds that are not subject to distribution fees. Applicants believe that the proposed operation of the Equity Fund will benefit investors by lowering transactions and operational costs and providing them with investment alternatives.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the

[1] NEWCO is now known as NU Enterprises and is engaged, through the use of multiple subsidiaries, in various energy related and other activities.

[2] Rule 52 exempts NEWCO's financial transactions among associate companies from Commission jurisdiction, however, this information is provided for background purposes.

[1] All existing entities that currently intend to rely on the order are named as applicants and any registered open-end management investment company that may rely on this order in the future will do so only in accordance with the terms and conditions of the application.

[2] The other Boston Partners Funds are the Boston Partners Board Fund, Boston Partners Micro Cap Value Fund, Boston Partners Mid Cap Fund and Boston Partners Large Cap Value Fund.

acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (a) The acquiring company and the acquired company are part of the same group of investment companies; (b) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (c) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Securities Exchange Act of 1934 or the Commission; and (d) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trust in reliance on section 12(d)(1) (F) or (G) of the Act. Applicants state that the proposed arrangement would comply with provisions of section 12(d)(1)(G), but for the fact that the Equity Fund's policies contemplate that it will invest in Index Securities and may invest in Other Securities.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt, conditionally or unconditionally, persons or transactions from the provisions of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants believe that permitting the Equity Fund and other Upper Tier Funds to invest in securities as described in the application would not raise any of the concerns that the requirements of section 12(d)(1)(G) were designed to address.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before approving any advisory contract under section 15 of the Act, the Board of Directors of the Company, on behalf of the Equity Fund or an Upper Tier Fund, including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, will find that the advisory fees, if any, charged under such contract are based on services provided that are in addition to, rather than duplicative of, services that are provided under any Underlying Fund's advisory contract. Such finding, and the basis upon which the finding was made, will be recorded fully in the Company's minute books on behalf of the Equity Fund or Upper Tier Fund.

2. Applicants will comply with all of the provisions of section 12(d)(1)(G) of the Act, except for section 12(d)(1)(G)(i)(II) to the extent that it restricts the Equity Fund or an Upper Tier Fund from investing in securities as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10100 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA–26; File No. S7–13–99]

Privacy Act of 1974: Establishment of Two Systems of Records: Disgorgement and Penalties Tracking System (SEC–47) and Fitness Center Membership, Payment, and Fitness Records (SEC–48)

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the establishment of two systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission gives notice of the establishment of two new Privacy Act systems of records: Disgorgement and Penalties Tracking System (SEC–47) and Fitness Center Membership, Payment, and Fitness Records (SEC–48).

DATES: The proposed systems will become effective June 1, 1999, unless further notice is given. The Commission will publish a new notice if the effective date is delayed to review comments, or if changes are made based on comments received. To be assured of consideration, comments must be received on or before May 24, 1999.

ADDRESSES: Persons wishing to submit comments should file three (3) copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 0609, Washington, DC 20549–0609. Reference should be made to File S7–13–99. Copies of the comments will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Betty Lopez, Privacy Act Officer (202) 942–4327, Office of Filings and Information Services, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'' or ''SEC'') gives notice of the establishment of two systems of records entitled Disgorgement and Penalties Tracking System (SEC–47) and Fitness Center Membership, Payment, and Fitness Records (SEC–48).

The SEC is establishing SEC–47 to facilitate SEC staff tracking of the repayment of disgorgement and penalties imposed on entities and individuals who have been determined to be violators of the provisions of the federal securities laws in SEC-initiated civil actions and administrative proceedings. The Commission's staff uses the records for case administration and collections. The system also is used to provide status reports to the Congress and the Department of the Treasury, and for responding to requests for information filed under the Freedom of Information Act.

The SEC is establishing SEC–48 in order to maintain payment and fitness information needed for operating the SEC Fitness Center. The SEC established the Fitness Center to provide fitness facilities to members of the Commission's staff. Members of the Commission's staff oversee the Fitness Center and have access to SEC–48 records in order to perform their official Fitness Center duties.

The systems of records reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, have been submitted to the Committee on Government Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' as

amended on February 20, 1996 (61 FR 6428, 6435).

Accordingly, the Commission is adding the following systems of records.

SEC–47

SYSTEM NAME:

Disgorgement and Penalties Tracking System.

SYSTEM LOCATION:

Securities and Exchange Commission, Office of the Secretary, 450 Fifth Street, NW, Mail Stop 0609, Washington, DC 20549–0609.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or entities that have been ordered to pay disgorgement and/or monetary penalties in SEC injunctive actions and administrative proceedings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on individuals or entities from whom the Commission is seeking or has obtained an order to pay disgorgement and/or monetary penalties, including the individual's or entity's name; the dates the Commission authorized, instituted, and/or settled an action; the responsible Commission staff; the internal case tracking number; the date the judgment or administrative order was entered; the amount of disgorgement and/or monetary penalties to be paid; the payment due date for disgorgement and/or monetary penalties; the date and amount of payments; the amount of disgorgement waived; and the status of debt collection efforts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 77h–1, 77t, 77x, 78u, 78ff, 79z–3, 80a–9, 80a–41, 80a–48, 80b–3, and 80b–9.

PURPOSE(S):

The system is being initiated to enable the Commission's staff to track the collection of disgorgement and monetary penalties arising out of SEC-initiated civil actions and administrative proceedings to enforce the federal securities laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the conditions for disclosure specified at 5 U.S.C. 552a(b), the SEC's staff may use these records and the information contained in the records routinely, as provided at 5 U.S.C. 552a(b)(3), as follows:

(1) To provide information to the Department of the Treasury, on a quarterly and annual basis, on the Commission's monetary penalty receivables;

(2) To provide information to the Department of the Treasury and other federal agencies while assisting in the collection of past due disgorgement and/or monetary penalties; and

(3) To provide information to persons, as appropriate, while assisting in the collection of past due disgorgements and/or monetary penalties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically and on paper.

RETRIEVABILITY:

Records may be retrieved electronically by the internal case tracking number, the case name, and the individual's or entity's name. Paper records may be retrieved by the internal case tracking number.

SAFEGUARDS:

Paper records are kept in locked file cabinets. Electronic records can be retrieved only by authorized persons using appropriate passwords.

RETENTION AND DISPOSAL:

Paper records and computer database records are maintained until matter is closed plus 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Secretary, Office of the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 0609, Washington, DC 20549–0609.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual or entity may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORDS ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORD PROCEDURES:

See record access procedures above.

RECORD SOURCE CATEGORIES:

Information is provided by Commission staff, and is extracted from Commission memoranda, Commission releases, judgments, and administrative orders. Additional information regarding the status of payments is provided in the form of copies of checks and/or money orders and from the Department of the Treasury's debt collection referral program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SEC–48

SYSTEM NAME:

Fitness Center Membership, Payment, and Fitness Records.

SYSTEM LOCATION:

Securities and Exchange Commission, Fitness Center, 450 Fifth Street, NW, Washington, DC 20549.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the SEC's staff who have become members of the Fitness Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Membership applications, fee and payment information (including electronic debit information), and fitness progress charts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901, *et seq.*

PURPOSE(S):

The system was initiated to enable SEC Fitness Center staff to track Fitness Center membership, fee payments, and the physical fitness of members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

No routine use disclosures have been established for these records. The records and information obtained in these records will not be disclosed outside the SEC, unless mandated by law. See the statutory conditions of disclosure at 5 U.S.C. 552a(b).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically and on paper.

RETRIEVABILITY:

Records are retrieved by the individual's name or membership number.

SAFEGUARDS:

Paper records are kept in locked file cabinets. Electronic records can be retrieved only by authorized persons using appropriate passwords.

RETENTION AND DISPOSAL:

Records are maintained for as long as an individual is a member of the Fitness Center plus six months.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director, Office of Administrative and Personnel Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual or entity may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORDS ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORD PROCEDURES:

See record access procedures. above.

RECORD SOURCE CATEGORIES:

All information is provided by Fitness Center members.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

Dated: April 14, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–9906 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41289; File No. SR–CBOE–99–12]

Selt-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Market-Maker Surcharge

April 14, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 there under,[2] notice is hereby given that on March 31, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage.*[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to CBOE Rule 2.40, the Equity Floor Procedure Committee approved the following fees for the following option classes: [4]

Option Class	Market-Marker Surcharge (per contract)	Order Book Official Brokerage Rate (per contract) [4]
Yahoo (YHQ)	$0.10	$0.00
Citigroup (C)	0.06	0.00
Amazon (ZQN)	0.10	0.00
Worldcom (LDQ)	0.10	0.00
U.S. Web (QWB)	0.03	0.00
Mindspring (MQD).	0.03	0.00
Doubleclick (QTD).	0.04	0.00

These fees will be effective as of April 1, 1999, and will remain in effect until such time as the Equity Floor Procedure Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999)(order approving CBOE Rule 2.40).

[4] The surcharge will be used to reimburse the Exchange for the reduction in the Order Book Official brokerage rate form $0.20 in the relevant options classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in exchange Rule 2.40.

6(b)(4)[5] of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[6] and subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–12 and should be submitted by May 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10018 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 u.S.c. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41286; File No. SR–CSE–99–02]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to a Specialist Revenue Sharing Program

April 14, 1999.

I. Introduction

On February 18, 1999, the Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a specialist revenue sharing program.

The proposed rule change was published for comment in the **Federal Register** on March 1, 1999.[3] No comments were received on the proposal.[4] This order approves the proposal.

II. Description of the Proposal

The Exchange proposes to amend Exchange Rule 11.10 to provide an incentive for growth in specialist activity by implementing a quarterly revenue sharing program and to eliminate the current two-million-share average daily cap on preference charges. Under the proposal, the Exchange would share with specialist firms all or a portion of the CSE's Specialist Operating Revenue (''SOR''), after operating expenses and working capital needs have been met. Under the definition contained in proposed Exchange Rule 11.10(j), SOR consists of transaction fees, book fees, technology fees, and market data revenue which is attributable to specialist firm activity. Further, all regulatory monies and investment income are excluded from SOR.

Under the proposal, the Exchange's Board of Trustees will determine on an ongoing basis the appropriate amount of SOR to be shared with specialist firms. The Exchange represents that its Board of Trustees has initially determined to share 100% of the first $750,000 in quarterly SOR and 50% of all quarterly SOR over $750,000, after actual expenses have been paid and the budgeted working capital goal of the Exchange has been set aside.

The proposed rule change provides that each specialist firm will receive a percentage of the SOR to be shared which is equal to that specialist firm's percentage contribution to SOR. Accordingly, the specialist firms will share the SOR on a pro rata basis. Although Tape B revenue is included in SOR, it will be excluded from each specialist firm's percentage contribution calculation.[5] The Exchange represents that in no event will the amount of revenue shared with specialist firms exceed SOR.

III Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[6] and, in particular, with the Section 6(b)(5) requirements that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[7]

The Commission notes that, in recent years, several markets have instituted various forms of incentive programs for their members, in attempts to attract

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41082 (February 22, 1999) 64 FR 10035 (File No. SR–CSE–99–02).

[4] On March 30, 1999, Sam Scott Miller, Orrick, Herrington & Sutcliffe, on behalf of Charles Schwab & Co. (''Schwab'') sent a letter advising the Commission that Schwab would submit comments on the proposed rule change in mid-April. On April 2, 1999, Mr. Miller informed Kathy England, Assistant Director, Division of Market Regulation, Commission, by telephone that Schwab would not comment on CSE's proposal.

[5] CSE's current transaction charge on Tape B activity is already zero and CSE already has in place a program which shares up to 40% of Tape B revenue with its specialist firms. *See* Securities Exchange Act Release No. 39395 (December 3, 1997) 62 FR 65113 (December 10, 1997).

[6] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

additional order flow to the exchange.[8] As an incentive to its specialists, the CSE has chosen to distribute a portion of operating revenue which is solely attributable to specialist trade activity (*e.g.,* transaction fees, book fees, and market data fees).[9] The Commission believes that the CSE's revenue sharing program should allow the Exchange to remain competitive with other markets which have implemented similar programs, which, in turn, should enhance the National Market System.

The Commission further finds that the parameters of the Exchange's revenue sharing program are consistent with the requirements of Section 6(b)(1).[10] The Commission believes it is appropriate for the CSE to distribute operating revenue generated by specialists only after the Exchange accumulates sufficient revenue to offset its actual expenses and working capital needs. In accordance with this principle, the Commission also finds that it is reasonable for the CSE's Board of Trustees to adjust the percentage of SOR to be distributed to reflect the changing financial needs of the Exchange over time. As a national securities exchange, it is the obligation of CSE to have the necessary resources to adequately conduct surveillance, examination and other regulatory responsibilities. While the Commission understands CSE's need to remain competitive with other securities markets, the Commission expects CSE to not compromise its regulatory responsibilities by sharing revenue that would more appropriately be used to fund regulatory responsibilities. More specifically, CSE, when determining its ''working capital needs,'' should be mindful of its regulatory responsibilities.

The Commission believes it is appropriate for the Exchange to exclude all regulatory monies, such as fines paid by specialists, from the definition of SOR. The deterrent and punished effect of a fine would be compromised if the Exchange essentially credited the fine amount back to the member. The Commission also finds that it is reasonable to exclude investment income from the definition of SOR, as that income is not generated by specialist activity.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CSE–99–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10020 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* Securities Exchange Act Release Nos. 38237 (February 4, 1997) 62 FR 6592 (February 12, 1997) (notice of filing and immediate effectiveness of amendments to the Chicago Stock Exchange's pricing schedule relating to specialist fees); 40591 (October 22, 1998) 63 FR 58078 (October 29, 1998) (notice of filing and immediate effectiveness of the Boston Stock Exchange's revenue sharing program for member firms); and 41174 (March 16, 1999) 64 FR 14034 (March 23, 1999) (notice of filing and immediate effectiveness of the NASD's pilot program to provide transaction credits to NASD members who exceed certain levels of trading activity).

[9] The Commission has recently undertaken a review of market data fees, including the current structure of such fees and the role such fees serve in the operation of the markets. Exchange programs that rebate or share revenue generated from market data fees to market participants, including the present proposal, are relevant to that study. Accordingly, it is likely that the Commission will examine the use of market data rebate programs in the context of the study.

[10] 15 U.S.C. 78f(b)(1).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41296; File Nos. SR–NASD–99–11 and SR–NASD–98–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify Its Small Order Execution System and SelectNet Service; Reopening of Comment Period on Nasdaq's Limit Order Book Proposal (SR–NASD–98–17)

April 15, 1999.

On February 5, 1999, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') proposed rule changes to modify its Small Order Execution System and SelectNet Service.[1] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD, through Nasdaq, is proposing rule changes that: (1) Re-establish SelectNet as an order delivery and negotiation system for Nasdaq National Market (''NNM'') securities; and (2) make numerous changes to the current rules relating to the trading of NNM securities, including: (a) Establishing a larger maximum automatic execution order entry size of 9,900 shares for NNM securities; (b) allowing market makers to use Nasdaq's proposed automatic execution system on a proprietary basis for transactions involving NNM securities; (c) reducing time delays between system executions against the same market maker from 17 to 5 seconds; and (d) enabling system interaction with a market maker's reserve size in NNM securities. The resulting new system will be referred to as the Nasdaq National Market Execution System (''NNMS''). In addition, as discussed below, Nasdaq is proposing to eliminate the NO Decrementation (''NO DEC'') and preferencing functions for NNM quotes and orders. The current voluntary automatic execution system for Nasdaq SmallCap issues will continue to operate as it does today. Nasdaq views NNMS as an interim approach to improving the Nasdaq market pending final approval by the Commission of Nasdaq's previously proposed Integrated Order Delivery and Execution System (SR–NASD–98–17).[2]

The NASD also proposes to modify several rules found in the NASD Rule Series 4600 and throughout the NASD Manual. In particular, Rule 4613 (Character of Quotations) will be amended to eliminate the references to Small Order Execution System (''SOES'') ''Tier Sizes for the NNM'' of market makers. Other rules referencing SOES will be rescinded or conformed accordingly, including Rule 4611(f) (Registration as a Nasdaq Market Maker), Rule 4619 (Withdrawal of Quotations and Passive Market Making), Rule 4620 (Voluntary Termination of Registration), Rule 4632 (Trade Reporting), Rule 4618(c) (Clearance and Settlement), and Rule 4700 Series (SOES).

II. Self-Regulatory Organization's Statement of the purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any

[1] The notice was filed pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, 17 CFR 250.19b–4. Items I, II, and III were prepared by Nasdaq.

[2] Because this filing is related to File No. SR–NASD–98–17 regarding the NASD's proposal to establish a central limit order book, the Commission also is seeking comment on that proposal at this time. NASD 98–17 was published in the **Federal Register** on March 12, 1998. *See* Securities Exchange Release No. 39718 (March 4, 1998), 63 FR 12124 (March 12, 1998). The comment period was subsequently extended to May 8, 1998. *See* Securities Exchange Act Release No. 39794 (March 25, 1998), 63 FR 15471 (March 31, 1998).

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The central purpose of these rule changes is to encourage and assist market professionals to provide liquidity by increasing their ability to manage the receipt and execution of the dramatically increased volume of orders prevalent in today's Nasdaq market. In their simplest form, the proposed rules provide for the automatic execution of all orders in NNM securities of 9,900 shares or less against a newly expanded universe of available trading interest to consist of all market makers' displayed quotes and reserve sizes. the rules will also allow Nasdaq to continue to provide, through SelectNet, a negotiation facility that maintains all of the benefits of modern communications technology and automated market services. Finally, the proposed system can be created and made functional quickly and with a minimum of reprogramming, factors that are particularly important given the upcoming Year 2000 moratorium.[3]

Background

Nasdaq's SOES was developed in 1984 to provide a simple and efficient means to execute small agency orders at the inside quote, report trades for public dissemination, and send trades to clearing for comparison and settlement.[4] Trading is done automatically and is negotiation free. In response to the October 1987 market break, SOES was enhanced in several respects to provide individual investors with guaranteed liquidity and assured access to market makers in times of market disruption. In particular, SOES participation was made mandatory for all market makers in NNM securities.

In January 1988, the Commission approved the NASD's Order Confirmation Transaction (''OCT'') Service (later renamed SelectNet). The Service was intended to provide an alternative to telephone contact among trading desks for negotiating trades.[5] The Service also was developed to provide additional communication options and electronic access to Nasdaq's trade reporting, order comparison and settlement facilities.[6]

SelectNet is an electronic, screen-based order routing system that allows market makers and order entry firms (collectively referred to as ''participants'') to negotiate securities transactions in Nasdaq securities through computer communications rather than relying on the telephone. Unlike SOES, SelectNet offers the opportunity to negotiate for a larger size or a price superior to the current inside. In addition, participants may provide that an order or counter-offer will be in effect for anywhere from 3 to 99 minutes, specify a day order, or indicate whether price or size are negotiable or whether a specific minimum quantity is acceptable. Participants may accept, price improve, counter, or decline a SelectNet order. Once agreement is reached, the execution is ''locked in'' and reported to the tape for public dissemination and sent to clearing for comparison and settlement.

SelectNet currently allows subscribers to direct, or ''preference'' orders to specified market makers or to broadcast orders to all market participants. Although SelectNet is an order delivery service, rather than an order execution service, Nasdaq believes that preferenced SelectNet order presented to a market maker at its displayed quote generally gives rise to liability under Exchange Act Rule 11Ac1–1 (''Firm Quote Rule'') for the market maker to execute the transaction at that price.[7] Under the rules proposed today, preferencing in SelectNet would still be allowed subject to the oversized order entry requirement discussed later in this filing.

Nasdaq also designated SelectNet as the link to Electronic Communications Networks (''ECNs'') in conjunction with the Act's Order Handling Rules.[8] Specifically, an amendment to SEC Rule 11Ac1–1 now requires an OTC market maker to make publicly available any superior prices that the market maker privately quotes through an ENC. A market maker may comply with this requirement by either changing its quote to reflect the superior price or delivering better priced orders to an ECN, provided that the ECN disseminates these priced orders to the public quotation system and provides broker-dealers equivalent access to these orders. The SelectNet linkage was implemented to facilitate these dissemination and access requirements.[9] SelectNet will continue to perform this function in the new trading environment proposed in this filing.

While SOES and SelectNet provide valuable services to market participants for the ultimate benefit of investors, there is a long-standing problem of potential ''dual laibility'' for a market maker's displayed quote which is directly attributable to the maintenance of two separate execution systems operating independently and simultaneously. Multiple access points to a market maker's quote, thorugh a combination of SOES and SelectNet as well as through a firm's internal order receipt/execution and telephone access facilities, can routinely subject market makers to unintended double liability for orders that reach their quote at or near the same time through disparate, asynchronous systems. In turn, the potential for unexpected and increased order liability reduces market maker incentives to commit capital and display larger quote sizes, which could deprive the Nasdaq market of valuable liquidity. Nasdaq's new automated execution environment is designed to remedy these problems.

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[3] Beginning June 30, 1999, NASD will implement a self-imposed Year 2000 moratorium on itself preventing any system changes to SOES and SelectNet Service. Per telephone conversation between Thomas P. Moran and John F. Malitzis, Office of General Counsel, Nasdaq, and Heather Traeger, Division of Market Regulation, SEC, on April 14, 1999.

[4] *See* Securities Exchange Act Release No. 21743 (February 12, 1985), 50 FR 7432 (February 22, 1985) (order approving rule change describing SOES).

[5] *See* Securities Exchange Act Release No. 25263 (January 11, 1988), 53 FR 1430 (January 19, 1988) (order approving OCT Service, on a temporary, accelerated basis). *See also*, Securities Exchange Act Release No. 25523 (March 28, 1988), 53 FR 10965 (April 4, 1988) (order extending temporary approval of SelectNet) and Securities Exchange Act Release No. 25690 (May 11, 1988), 53 FR 17523 (May 17, 1988) (order permanently approving OCT).

[6] The Service was enhanced and renamed SelectNet in 1990. *See* Securities Exchange Act Release No. 28636 (November 21, 1990), 55 FR 49732 (November 30, 1990). In 1992, the service was expanded to add pre-opening and after-hours sessions, so that today, SelectNet is available for members to negotiate and execute orders from 9:00 a.m. until 5:15 p.m. (ET). *See* Securities Exchange Act Release No. 30581 (April 14, 1992), 57 FR 14596 (April 21, 1992).

[7] There are two exceptions to the Firm Quote Rule: (1) prior to the receipt of the order, the market maker has communicated to its exchange or association a revised quotation size or revised bid or offer or (2) prior to the receipt of the order, the market maker is in the process of effecting a transaction in a security when an order in the same security is presented, and immediately after the completion of such transaction, the market maker communicates to its exchange or association a revised quotation size or revised bid or offer.

[8] SelectNet is also used by UTP Exchanges (as defined below) to access Nasdaq market makers. *See* Securities Exchange Act Release No. 38191 (January 22, 1997), 62 FR 4562 (January 30, 1997).

[9] *See* Securities Exchange Act Release No. 38156 (January 10 ,1997), 62 FR 2415 (January 16, 1997) (order approving changes related to implementation of the SEC Order Handling Rules).

Nasdaq's New Trading Environment

To deal with the significant and ongoing problem of dual liability, Nasdaq is proposing modifications to its negotiation and automatic execution systems. Under the proposal, SelectNet, through rule and system changes, would be re-established as a non-liability, order delivery and negotiation system for NNM securities. Moreover, SOES, the current automatic execution system for small orders from public customers, will be recast for the trading of NNM securities through the following changes: (1) increasing for NNM securities the maximum order size to 9,900 shares; (2) allowing market makers to enter proprietary orders into the new system and to obtain automatic execution for their proprietary and agency orders in NNM securities; (3) reducing the current 17-second delay between executions against the same market maker to 5 seconds; and (4) enabling NNM orders to interact automatically with market makers' displayed size and reserve size, including a market maker's Agency Quotes.[10] Nasdaq believes that this combination of rule changes will expeditiously reduce ''double hit'' liability in the most active Nasdaq securities while dramatically increasing the speed of executions and enhancing access to the full depth of a security's trading interest by all market participants.

Changes to SelectNet

Specifically, SelectNet's transformation to an order delivery and negotiation system will be accomplished through rule changes prohibiting the use of SelectNet for the entry of any preferenced orders directed to market makers in NNM securities unless such orders are at least one normal unit of trading (*i.e.*, 100 shares) in excess of the displayed amount of the NNMS market makers's quote to which they are directed (''over-sized order requirement''). In addition, such orders must also be designated as wither: (1) ''All-or-None'' (''AON'') of a size that is at least 100 shares greater than the displayed amount of the NNMS market maker's quote to which the order is directed; or (2) a ''Minimum Acceptable Quantity'' order (''MAQ'') with an MAQ value of at least 100 shares greater than the displayed amount of the NNMS market maker's quote to which the order is directed. SelectNet itself will be programmed to reject preferenced messages violating this mandate.[11] In Nasdaq's view, these changes will ensure that market makers are not subject to potential dual liability arising under the Firm Quote Rule as the result of the duplicative receipt of liability orders through asynchronous systems. Recipients of oversized NNM SelectNet orders would still have the option to execute or initiate electronic negotiation in response to the message.[12]

As described below, national securities exchanges trading under grants of unlisted trading privilege (''UTP Exchanges'') will continue to use SelectNet as their primary linkage with Nasdaq. ECNs will have the ability to be accessed through the SelectNet linkage, or fully participate in the NNMS and be subject to automatic execution, through NNMS, against their quote. Taken together, these changes will ensure for NNM securities that SelectNet regains its place as the order delivery and negotiation system that it was originally intended to be.

Order Entry Parameters

For NNM securities, the system proposed today becomes the Nasdaq market's primary trading and execution medium. The proposed NNMS system transforms the currently operating execution system for small orders from public customers into a more efficient, automated facility for the handling of all NNM orders of 9,900 shares or less entered for execution against an expanded trading interest accessible through both displayed and reserve size quotes. The proposed system will execute automatically against market makers' proprietary and agency quotes as more fully described below.

First, the maximum order size for NNM securities entered into NNMS will be increased to 9,900 shares from current order size maximums (*e.g.*, 1000, 500 or 200 shares). Second, market makers will be allowed to use NNMS on a proprietary basis, including being able to obtain automatic execution for orders sent to other NNMS participants, when trading NNM securities. Third, the current 17-second interval delay between automatic executions against the same market maker will be reduced to 5 seconds in NNMS. Fourth, Nasdaq will design NNMS to permit interaction of orders against a market maker's ''reserve size'' (including a market maker's posted agency quote) after yielding priority to displayed quotes at the same price. Additionally, market makers will be given the option of having their quote automatically refreshed from that reserve to a size level of their choosing. If no particular size is designated by the market maker, the quote will be automatically refreshed by NNMS at a 1000 share displayed size level.[13]

Reserve Size

The proposed reserve size functionality in the NNMS will yield priority to all other displayed quotes at the same price level, so that the system will execute against displayed size in time priority and then against the reserve size in time priority. To encourage the display of appropriate order size, NNMS will require a market maker using NNMS's reserve-size functionality to display a minimum of 100 shares in its Proprietary Quote. Moreover, displayed Proprietary Quotes at the inside of the market that are to be refreshed at the same price level must be refreshed at 1000 or more shares for a market maker to be permitted to continue using reserve size. Market makers wishing to refresh and display at the same inside price at a size less than 1000 shares will be able to do so but will not be permitted to use NNMS's reserve size feature.[14]

For example, in a situation where there are three market makers, ranked in time priority A, B, C, each at the best bid and each displaying 1,000 shares and all with 5,000 shares in reserve, the system will handle the order as follows: if a 9,000 share market order is entered, the proposed system would automatically first take out the displayed 3,000 shares. It then would take out the entire 5,000 share reserve size of market maker A (''MMA'') and 1,000 shares of market maker B's (''MMB'') 5,000 share reserve size in

[10] Nasdaq recently filed a proposal with the Commission that would permit the separate display of customer orders by market makers in Nasdaq through a market maker agency identification symbol (''Agency Quote''). *See* Securities Exchange Act Release No. 41128 (March 2, 1999), 64 FR 12198 (March 11, 1999). (''SR–NASD–99–09.'') The Commission subsequently extended the comment period for that proposal until June 1, 1999. Securities Exchange Act Release No. 41243 (April 1, 1999), 64 FR 17428 (April 9, 1999).

[11] SelectNet will continue to accept orders of any size (subject to the current 999,999 shares system limit) for Nasdaq SmallCap securities.

[12] This is not to be understood to prohibit liability for each of potentially two quotes displayed by market makers under the Agency Quote proposal contained in SR–NASD–99–09.

[13] *See* NASD Rule 4710(g) and proposed rules 4701(g) and 4710(d)(3).

[14] This restriction will not apply for interim executions against a market maker's unupdated quote. For example, should a market maker displaying an initial quotation of 1000 shares with 5000 shares in reserve be automatically accessed by NNMS for 300 shares in displayed size, that market maker will still be allowed to continue to display its remaining 700 shares and keep 5000 available in reserve size. Should the market maker subsequently update either its displayed or reserve sizes, or its quoted price, the market maker will be obligated to increase its displayed size to 1000 shares to continue to use NNMS's reserve size feature.

time priority, filling the order and leaving MMB with 4,000 shares in reserve size and market maker C (''MMC'') with 5,000 shares in reserve size.[15] MMA's quote would be completely decremented and drop from the inside market. Since MMB's total displayed and reserve quote would not be completely decremented (4,000 reserve share size remaining) it would retain its time priority and, assuming it remains the best bid, remain at the top of the quote montage and have its displayed size refreshed from its remaining reserve size. For MMB to continue quoting shares in reserve size, MMB would have to have selected a 1,000 share or greater refresh size. MMC, based on its 5,000 share reserve size remainder, would retain the number two slot in the montage and would have the option of having its displayed quote automatically refreshed from reserve to a size level of its choosing. MMC would be subject to a 1,000 share or greater display refresh minimum to be allowed to continue to quote reserve size. MMA's fully exhausted quote will have the option of being automatically refreshed away from the inside market using Nasdaq's automatic quote update function. If a specific, predetermined automatic quote refresh amount is not selected, the NNMS system will refresh a market maker's displayed quote from reserve size to a 1,000 share display level.

As always, failure to update a fully exhausted quote will result in the system placing the market maker's quote in a ''closed'' state that, if not updated within 5 minutes, will be cause for suspension of the market maker's quote for 20 business days.[16]

No Decrementation

In addition, Nasdaq is also proposing to eliminate the NO DEC feature for NNM securities, which currently allows continuous executions against a market maker's quote at the same price without decrementing the quoted size. Nasdaq believes that the NO DEC feature is increasingly less important now that market makers can manage their quote by displaying their actual size, and will become even less important in a market where market makers are given the ability to refresh their quote at a size they determine. Nasdaq also believes that NO DEC inhibits quote competition among market participants and discourages the full display of trading interest. Moreover, given the larger order sizes and faster executions that can be expected from the new trading system, Nasdaq submits that a continuation of NO DEC in NNMS could inadvertently expose market participants to inappropriate levels of order liability. Finally, NO DEC provides no benefits in conjunction with Nasdaq's proposed Agency Quote concept in that such agency quotes will represent the full and complete trading interest of the customer and are inconsistent with the unlimited and constant exposure to orders indicated by the use of NO DEC.

SOES Preferencing

Similarly, Nasdaq is also proposing to eliminate the existing SOES preferencing feature for NNM securities as being inconsistent with the processing of orders in time priority as contemplated in the proposed new trading environment. Preferencing in an automatic execution system also reduces market maker incentives to aggressively compete for orders by showing the full size and true price of their trading interest. Moreover, a continuation of preferencing may place Agency Quotes of public customers at a disadvantage. Nasdaq believes that these factors, especially when combined with the proposed elimination of potential dual liability though SelectNet and the current ability of market makers to display their actual size, clearly militate in favor of discontinuing preferencing in NNMS.

UTP Exchange Participation

UTP Exchanges will continue to have access to the full range of SelectNet's capabilities as their primary linkage with Nasdaq. UTP exchanges will continue to receive, and be obligated to execute, preferenced SelectNet liability orders. Additionally, UTP Exchanges will retain their ability to send SelectNet preferenced liability orders to market makers. While Nasdaq notes that a market maker may still have dual liability in situations where a market maker is accessed by a UTP Exchange via SelectNet and simultaneously by an NNMS market maker of order entry firm via the NNMS system, Nasdaq believes that such dual liability is manageable in the current trading environment. Nasdaq will continue to monitor this issue and will propose amendments to the NNMS system and the UTP Plan if significant problems arise.

ECN Participation

ECNs will have two options for participation in the NNCS System, and the manner in which they choose to participate shall be governed by an addendum to the Nasdaq Workstation II Subscriber Agreement of ECNs.[17]

First, an ECN would be allowed to participate in Nasdaq in substantially the same manner as they do today (''Order Entry ECN''). That is, market participants would continue to be able to access ECNs via the SelectNet linkage and would continue to be able to send preferenced SelectNet messages of any size (up to 999,999 shares) and with any conditions to such ECNs (*i.e.*, the oversized order requirement for a preferenced SelectNet order would not apply to ECNs under this first option). ECNs that choose to have the capability to ''reach out'' and access other market maker quotes (including Agency quotes) could do so by requesting order-entry capability in the NNMS system. The ECN also could send preferenced SelectNet orders to NNMS market makers subject to the oversized order restrictions described in this filing.[18]

Second, an ECN could choose to participate fully in the NNMS system (''Full-Participant ECN''). Under this option, the ECN would agree to provide automatic execution for orders received from other NNMS participants through the NNMS system by the ECN. As with the first option, Full-Participant ECNs could use the NNMS system to obtain automatic execution of orders they send to NNMS market makers or other Full-Participant ECNs.

Given time and technology constraints affecting some ECNs, Nasdaq feels that on an interim basis ECNs should have options as to the manner in which to participate in Nasdaq's new system. Thus, Nasdaq is not proposing at this time to mandate that all ECNs register as Full-Participant ECNs, but will reconsider this issue in the future.

[15] Like Nasdaq's other automatic execution systems, NNMS will impose a $0.50 per side fee for each execution. To reduce user costs and facilitate the use of NNMS's reserve size functionality, a simultaneous and instantaneous execution against an NNMS participant's displayed and reserve size will be treated for billing purposes as a single execution.

[16] Market makers will still have the ability, through Nasdaq's automatic quote update facility, to pre-select a tick value and have Nasdaq refresh their proprietary quote away from the inside market. This capability would not apply to a market maker's Agency Quote because that quotation represents agency interest and will not be required to be two-sided. If a market maker's quote is refreshed to a different price or size level, another order will not be delivered to that market maker for 5 seconds after that quote is refreshed at the new price or size level.

[17] The manner in which ECNs currently participate in the Nasdaq market place is governed, in part, by the Nasdaq Workstation agreement as amended for ECNs, which all ECNs must sign. *See* Rule 4623(b)(3). Under the proposed rules for the NNMS system, this practice would not change.

[18] This would allow ECNs to access market makers through two systems, but would limit dual liability that market makers currently face because they will only be receiving orders requiring them to execute from NNMS.

Nasdaq SmallCap

For Nasdaq SmallCap securities, the trading rules for automatic execution will remain the same as they are today. Thus, participation in the automatic execution system for SmallCap will continue to be voluntary, and be available only for the small orders of public customers. Maximum order size limits will remain in effect as well as the prohibition against splitting larger orders to avoid those limits. Restrictions on access by market professionals will likewise be maintained.[19] After Nasdaq has had experience with the NNMS system, it will consider whether the functionality of the system should be made available for SmallCap trading.

Other, Technical Modifications

Finally, several rules found in NASD Rule Series 4600 and throughout the NASD Manual will be modified in technical, non-substantive ways. In particular, Rule 4613 (Character of Quotations), will be amended to eliminate the references to SOES Tier Sizes for the NNM quotations of market makers. Other rules referencing SOES will be rescinded or conformed accordingly, including Rule 4611(f) (Registration as a Nasdaq Market Maker), Rule 4619 (Withdrawal of Quotations and Passive Market Making), Rule 4620 (Voluntary Termination of Registration), Rule 4632 (Trade Reporting), Rule 4618(c) (Clearance and Settlement) and the Rule 4700 Series (SOES).

Nasdaq submits that the above proposals can obtain many of the market benefits of a full integration of Nasdaq systems in a timely and efficient manner, while still maintaining SelectNet as a negotiation system and as the approved link between Nasdaq, ECNs and UTP exchanges. Most importantly, Nasdaq's proposals leverage its existing technology platform to significantly reduce the negative market impacts resulting from multiple executions from non-integrated systems as quickly as possible, with a minimum of burdensome reprogramming for all market participants during the crucial period of time leading up to the approaching year 2000 moratorium. The proposals also provide order entry firms and their public customers increased benefits from enhanced access through larger NNM order entry size parameters, quicker executions, and the ability to interact with the non-displayed reserve size of NNM market makers resulting in improved overall market efficiency.

2. Statutory Basis

Nasdaq believes that the proposed rule change are consistent with Section 15A(b)(6) of the Act[20] in that the proposed rule changes are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in the regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Nasdaq believes that the proposal also is consistent with Section 11A(a)(1)(C),[21] in which Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) economically efficient execution of securities transactions; (2) fair competition among brokers and dealers; (3) the availability to brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors' orders in the best market; and (5) an opportunity for investors' orders to be executed without the participation of a dealer. Specifically, Nasdaq believes that this proposal, combined with Nasdaq's Agency Quote, which is also pending with the Commission, will provide a mechanism for the more efficient display and automatic execution of customer limit orders. Thus, the Nasdaq believes the proposed rule change is consistent with Section 11A and the SEC's Order Handling Rules,[22] and in particular the Display Rule.[23]

(B) Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. As discussed, Nasdaq has proposed modifications to SOES and Select Net as interim measures pending Commission action on its Integrated Order Delivery and Execution System, commonly known as its limit order book proposal (SR–NASD 98–17). Nasdaq has also proposed its agency quote display structure (SR–NASD 99–09) as an interim measure pending its limit order book proposal. Both the SOES/SelectNet modifications and the agency quote display could significantly modify the existing Nasdaq market in ways that some may consider less desirable than the results of the proposed limit order book. Because these proposals are largely alternatives to each other, market participants should have the chance to formally comment on the limit order book proposal in light of the SOES/SelectNet and agency quote proposals. Therefore , the Commission is formally reopening the comment period on the limit order filing, and requesting additional comments on this proposal.

In response to prior comments on the impact of the limit order book filing, Nasdaq has discussed operating the limit order book on a pilot basis. A pilot would provide experience with the book and allow Nasdaq and the Commission to better gauge the impact of the book on the Nasdaq market. The Commission specifically requests comment on whether the proposal should be

[19] *See* NASD *Notice to Members 88–61.* Nasdaq notes that is recently filed, in response to concerns raised by SEC staff, a rule proposal to eliminate the ''five-minute presumption'' outlined in *Notice to Members 88–61. See* Securities Exchange Act Release No. 41015 (February 4, 1999), 64 FR 6415 (February 9, 1999).

[20] 15 U.S.C. 78o–3(b)(6).

[21] 15 U.S.C. 78k–l(a)(1)(C).

[22] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (adopting release of Order Handling Rules).

[23] 17 CFR 240.11Ac1–4.

approved on a pilot basis. If so, how should a pilot be structured? To gain a realistic assessment of the book, should the pilot include a limited number of securities across a range of the NNM market, or should it include securities representing a substantial portion of the trading market. For example, should the pilot include 250 securities, of which 20 were from the Nasdaq top 100 securities, and the rest were chosen from different quintiles of NNM securities? Or should the pilot comprise 1000 securities including the Nasdaq top 100 securities and the remainder chosen from quintiles of NNM securities? Or would a different pilot be more appropriate? In addition, how long should a pilot last? Would six months, or one year, provide sufficient information to evaluate a pilot? Would a pilot of this length and breadth potentially harm the Nasdaq market on a lasting basis?

Persons making written submissions on either filing should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–11 (including those comments specifically addressing File No. SR–NASD–98–17) and should be submitted by June 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10019 Filed 4–21–99; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S7 covers the Office of the Deputy Commissioner, Human Resources. Notice is given that Subchapter S7B, the Office of Personnel, is being amended to reflect the realignment of center functions and the retitling of the Center for Personnel Operations and the Center for Personnel Policy and Program Development. The changes are as follows:

Section S7B.10 *The Office of Personnel*—(Organization)

Retitle:

F. The Center for Personnel Operations (S7BK) to: ''The Center for Classification and Organization Management (S7BK).''

G. The Center for Personnel Policy and Program Development (S7BE) to: ''The Center for Personnel Policy and Staffing (S7BE).''

Section S7B.20 *The Office of Personnel*—(Functions)

Retitle:

F. The Center for Personnel Operations (S7BK) to: ''The Center for Classification and Organization Management (S7BK).''

Delete:

1., 7., 8. and 9. in their entirety.

Remember remaining functions 1 through 5.

Retitle:

G. The Center for Personnel Policy and Program Development (S7BE) to ''The Center for Personnel Policy and Staffing (S7BE).''

Amend to read as follows:

2. Directs the development and operation of SSA performance and employee awards programs. Develops and implements SSA employee incentive and honor awards programs and administers the performance management systems.

Add:

3. Develops and implements policies and regulations pertaining to SSA recruitment and placement. Initiates and processes personnel actions for SSA Headquarters employees; participates with office managers and staffs in assessing placement actions; and directs the administration of all Merit Promotion Plans applicable within Baltimore/Washington/Falls Church Headquarters components. Processes necessary administrative actions required for new employees entering on duty.

4. Implements policies, regulations and programs pertaining to special recruitment and staffing activities for SSA headquarters and field organizations. Develops and implements student employment programs.

5. Directs the development and administration of SSA services concerning employee benefit programs which include the Civil Service Retirement System, the Federal Employees Retirement System, the Thrift Savings Plan and the Federal Employees Group Life Insurance Program. Serves as the focal point for unemployment compensation activities.

6. Provides for the establishment and maintenance of the Official Personnel Folders for SSA headquarters employees.

H. The Center for Employee Services (S7BG).

Delete:

3. In its entirety.

Add:

3. Directs the administration of the Federal Employees Health Benefits Program for SSA employees.

6. Directs the development and operation of the SSA employee suggestion program.

Dated: April 9, 1999.

Paul D. Barnes,

Deputy Commissioner for Human Resources.

[FR Doc 99–10105 Filed 4–21–99; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–99–015]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) and its two Subcommittees (Waterways and Navigation) will meet to discuss waterway improvements, aids to navigation, current meters, and various other navigation safety matters affecting the Houston/Galveston area. All meetings will be open to the public.

DATES: The meeting of HOGANSAC will be held on Thursday, May 27, 1999 from 9 a.m. to approximately 1 p.m. The meeting of the Navigation Subcommittee will be held on Thursday, May 13, 1999 at 9 a.m. and immediately following, the Waterways Subcommittee will meet. The meetings may adjourn early if all business is finished. Members of the public may present written or oral statements at the meetings.

[24] 17 CFR 200.30–3(a)(12).

ADDRESSES: The HOGANSAC meeting will be held in the conference room of the Houston Pilots' Office, 8150 South Loop East, Houston, Texas. The subcommittee meetings will be held at the Houston Yacht Club, 3620 Miramar, Seabrook, Texas.

FOR FURTHER INFORMATION CONTACT: Captain Wayne Gusman, Executive Director of HOGANSAC, telephone (713) 671–5199, or Commander Paula Carroll, Executive Secretary of HOGANSAC, telephone (713) 671–5164.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of the Meetings

Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC). The tentative agenda includes the following:

(1) Opening remarks by the Committee Sponsor (RADM Pluta), Executive Director (CAPT Gusman) and chairman (Tim Leitzell).

(2) Approval of the January 28, 1999 minutes.

(3) Report from the Waterways Subcommittee.

(4) Report from the Navigation Subcommittee.

(5) Status reports on Baytown Tunnel removal, Army Corps of Engineers' dredging projects and pipeline safety, and comments and discussions from the floor.

(6) New business

Subcommittee on Waterways. The tentative agenda includes the following:

(1) Presentation by each work group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each work group.

Subcommittee on Navigation. The tentative agenda includes the following:

(1) Presentation by each work group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each work group.

Procedural

All meetings are open to the public. Please note that the meetings may adjourn early if all business is finished. Members of the public may make oral presentations during the meetings.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: April 8, 1999.

A.L. Gerfin, Jr.,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

[FR Doc. 99–10114 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5543]

Study of the Implementation and Enforcement of Safety Management System (SMS) regulations, complying with the International Safety Management (ISM) Code

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Coast Guard will hold a public meeting to discuss how we intend to study the implementation and enforcement of the International Safety Management (ISM) Code and the impact that Safety Management Systems (SMSs) are having on marine safety and environmental protection. The study will measure the effectiveness of vessel and company SMSs and identify actions that could be taken to further promote the use and effective implementation of the ISM Code. The Coast Guard encourages interested parties to attend the meeting and submit comments for discussion during the meeting, and seeks written comments from any party who is unable to attend the meeting.

DATES: The public meeting will be held on May 14, 1999, from 9:30 a.m. to 2 p.m. The meeting may close early if all business is finished. Written material for discussion during the meeting should reach the Docket Management Facility on or before May 7, 1999. Comments and related material must reach the Docket Management Facility on or before May 31, 1999.

ADDRESSES: The public meeting will be held at the U.S. Coast Guard Headquarters Transpoint Building, room 2415, 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–1181.

You may submit your comments and related material by only one of the following methods:

(1) By mail to the Docket Management Facility, (USCG–1999–5543), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments and documents, as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this rulemaking on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice or public meeting, contact Mr. Bob Gauvin, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–2), Coast Guard, 202–267–1053. For questions on viewing or submitting material to the docket, contact Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard (''We'') encourages you to participate in this study by submitting comments and related material, and by attending the public meeting. If you submit written comments, please include your name and address, identify the docket number for this study (USCG–1999–5543), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please do not submit the same comment or material by more than one means.

If you submit them by mail or hand, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they were received, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period for the study report.

Public Meeting

This meeting is open to the public. Please note that the meeting may close

early if all business is finished. Members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify Mr. Bob Gauvin at 202–267–1053 no later than May 7, 1999.

We will begin the public meeting with a brief presentation discussing the actions taken to date by the Coast Guard to develop and enforce regulations and policy for the implementation of SMSs, as well as ISM Code requirements for certification. The presentation will include a brief synopsis of the Coast Guard's planned actions to complete the study.

On completion of the Coast Guard presentation, we will read any written comments received before the public meeting to those attending and into the record of the meeting. We will then give the attendees time to speak on their concerns and interest regarding this issue and the study. After the attendees complete their oral presentations, we may open up discussions about concerns voiced repeatedly during the comment period of the meeting. These discussions may request input on the Coast Guard's planned actions to complete the study and recommendations from the attendees on how we can best research information from those companies using SMSs in their shore and vessel operations.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Bob Gauvin at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Background and Purpose

The ISM Code is enforced by the Coast Guard in compliance with regulations in Title 33, Code of Federal Regulations, part 96 (33 CFR part 96), and Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS). Navigation and Vessel Inspection Circulars No. 2–94 (NVIC 2–94) and No. 4–98 (NVIC 4–98) provide the Coast Guard's enforcement policy. Both of these NVICs may be read or downloaded from the Coast Guard's publication homepage on the Internet at http://www.uscg.mil/hq/g-m/index.htm.

In July 1998, the Coast Guard began recognizing classification societies to issue certification for and ensure compliance with the ISM Code for shipping companies and certain vessels, with the approval of the International Maritime Organization (IMO). The ISM Code addresses the importance of designated persons and various responsibilities of the master and maritime company and requires consistent documentation and monitoring of management procedures, actions and practices implemented in accordance with governmental and company requirements. The ISM Code ensures the continuous improvement of safety management skills in the maritime industry and requires companies to ensure safe operation of their fleets in accordance with applicable international and Flag State requirements by developing Safety Management Systems (SMSs) for their shore and vessel operations.

The primary goal of an SMS is to ensure, in writing, the commitment and involvement of a shipping company's top management and representatives of shore and ship personnel to continuously improve safety management skills of shore-based and ship-based personnel, including preparation for emergencies related to both safety and environmental protection. Implementing an SMS ensures company and vessel compliance with mandatory rules and regulations. Using an SMS also ensures that applicable codes, guidelines, and standards recommended by the IMO, various Flag Administrations, recognized classification societies, and maritime industry organizations are taken into account. Companies are required by the ISM Code to develop and implement SMSs; this includes exercising company procedures and maintaining regular written reports and internal audits for reporting accidents and non-conformities with the provisions of the ISM Code. External audits conducted by recognized classification societies ensure that companies maintain current internal audits, reports, and records of exercises, procedures, accidents, and non-conformities and the company's or vessel's respective corrective actions.

Essential to the effective functioning of an SMS is the need for all persons involved with the system to openly exchange safety information that will result in corrective actions of material conditions, safety procedures and company processes that support safety. Candid and accurate records ensure open lines of communication between company management and vessel crews and are vital for companies, vessels, and external recognized authorities to measure a company's safety and environmental protection performance against a documented system.

Recently, we received comments and questions from the maritime industry regarding vessel owners' ability or willingness to fully implement SMSs. They contended that vessel owners, out of fear of self-incrimination for liability, would not properly complete the internal audits, critical management reviews, and reports of non-conformities required by the SMSs and subject to external audits. Incomplete, vague, or inaccurate reports interfere with the effectiveness such a system would have in raising levels of safety. If these required SMS documents could be used against a vessel, its owner, or the companies' employees in legal challenges, how could we expect full disclosure?

In response, we recognize that certain information of a personal or business nature is already protected to varying degrees by laws, such as the Privacy Act. In addition, SMSs are considered a form of intellectual property since they define and describe key practices that play a role in maintaining a competitive edge in the maritime industry. We acknowledge and abide by our legal and moral duty to protect personal and business information from public disclosure in the course of our role as a safety agency. However, records intended to improve safety may also demonstrate the omission or commission of an act that could be construed as negligent. Although this was not the intended purpose of the ISM Code, legal actions could occur as a result of information found in SMS-required documentation of accidents and non-conformities evaluated by external audits.

Coast Guard ISM Code Study

The purpose of this notice is to announce that we intend to conduct a study regarding the effective implementation and possible improvements of ISM Code SMSs and to invite the public to attend a public meeting to discuss issues and concerns regarding the ISM Code and the study.

Section 306 of the Coast Guard Authorization Act of 1998 (Pub. L. 105–383), ''Safety Management Code Report and Policy,'' mandates the Secretary of Transportation to complete a study on:

(1) Reporting the status of ISM Code implementation;

(2) Detailing enforcement actions involving the ISM Code, including the role documents and reports produced following the external audits required by the ISM Code play in such enforcement actions;

(3) Evaluating the effects the ISM Code has had on marine safety and environmental protection, and identifying actions to further promote

marine safety and environmental protection through the ISM Code;

(4) Identifying actions to achieve full compliance with and effective implementation of the ISM Code; and

(5) Evaluating the effectiveness of internal reporting and auditing under the ISM Code, and recommending actions to ensure the accuracy and candidness of such reporting and auditing. These recommended actions might include proposed limits on the use of documents produced following external audits required by the ISM Code in legal proceedings.

Questions to the Public and Maritime Industry

We are initiating research for the study by requesting answers to the questions listed below. You may submit your responses in writing to the docket at the address under **ADDRESSES** or present them orally at the public meeting on May 14, 1999. Please consider the following questions with regard to granting access to information in the SMS. Who should have access to this information and what impact could the release of this information have on safety and the intended purpose of the information?

(1) Should the information contained in an SMS be restricted to direct users of the system, i.e., recognized organizations directly responsible for the audit of the system, Port State and Flag State authorities, etc. and no others?

(2) Would restricting the use of information in the SMS to only those entities listed in Question 1, and excluding all others, appreciably improve candid reporting of corrective actions for items related to safety or environmental protection?

(3) If you answered that restricting the access to or use of SMS information by entities other than those listed in Question 1 would improve the reporting of corrective actions, please respond. Would this improvement be of a sufficient magnitude to justify placing restrictions on the use of that information?

(4) If selected entities could be granted access beyond those listed in Question 1, who should they be and why?

(5) Who should not, under any circumstances, be granted access to the information in the SMS and why?

(6) Should the safety information and records contained in the SMS be as accessible as other similar information now contained in ships logs and other records required to be maintained by law, regulations or international convention (e.g., the ships oil record book)?

(7) If company SMS procedures and SMS audit report information is made available and could be used by private litigants in actions against the company or company employees; what impact, if any, would the use of this information have on the level of detail vessel crew members and company personnel would use in creating and maintaining records that identify corrective actions related to safety items?

(8) Instead of restricting access to the information, should restrictions be placed on the use of the information from the SMS? If yes, for what purposes should information in the SMS not be used?

(9) Are there SMS records that should be accessible while other SMS records should be restricted?

(10) Are there other alternatives that would promote candidness of reporting that would not restrict access (e.g., placing limits of liability on actions stemming from use of information in the SMS)?

Dated: April 16, 1999.

Jeffery P. High,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–10113 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[ALJ 99–0004–CIV]

In the Matter of Parker & Parsley Petroleum USA, Inc.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed penalty; opportunity to participate.

SUMMARY: The Coast Guard gives notice of the proposed assessment of a Class II administrative penalty against Parker & Parsley Petroleum USA, Inc. for violations of the Federal Water Pollution Control Act (FWPCA). The alleged violation involves a discharge of approximately 77,523 gallons of oil into and upon Deadend Canal, Franklin, Louisiana and adjoining navigable waters of the United States on or about November 26, 1996 and continuing through and including December 5, 1996. Interested persons may participate or file comments in this proceeding.

DATES: Filings in this matter must be received no later than May 24, 1999.

ADDRESSES: You may mail comments to the Hearing Docket Clerk, Administrative Law Judge Docketing Center, United States Coast Guard, 40 South Gay Street, Room 412, Baltimore, Maryland 21202–4022. Comments may also be personally delivered to Room 412 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (410) 962–7434. You may also fax your comments to (410) 962–1742.

The Administrative Law Judge Docketing Center maintains the public docket for this matter. Comments will become part of this docket and will be available for inspection or copying in Room 412 at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. George J. Jordan, Director of Judicial Administration, Office of the Chief Administrative Law Judge, Commandant (G–CJ), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is (202) 267–2940.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their name, address, identify this document (ALJ 99–0004–CIV), and state the reason for each specific comment. Please submit all comments and attachments in an unbound format on white paper no longer than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment or receipt of comments should enclose self-addressed, stamped postcards or envelopes.

Discussion

This is a Class II civil penalty proceeding brought under section 311(b)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) (FWCPA), as amended by the Oil Pollution Act of 1990 (33 U.S.C. 1321(b)(3)). The FWPCA requires the Coast Guard to publish notice of the proposed issuance of an order assessing a Class II civil penalty in the **Federal Register**.

If you wish to be an interested person, you must file written comments on the proceeding or written notice of intent to present evidence at any hearing held in this Class II civil penalty proceeding with the Hearing Docket Clerk.

The following table explains how interested persons may participate in a Class II civil penalty proceeding.

If—	Then—
a hearing is scheduled.	You will be given

If—	Then—
the proceeding is concluded without a hearing.	Notice of any hearing; A reasonable opportunity to be heard and to present evidence during any hearing; and Notice and a copy of the decision. 33 CFR 20.404 You may petition the Commandant of the Coast Guard to set aside the order and to provide a hearing. You must file the petition within 30 days after issuance of the administrative law judge's order. 33 CFR 20.1102.

You can find the regulations concerning Class II civil penalty proceedings in 33 CFR Part 20.

The Coast Guard alleges that on or about November 26, 1996 and continuing through and including December 5, 1996, Parker & Parsley Petroleum USA, Inc. discharged approximately 77,523 gallons of oil into and upon Deadend Canal, 100 yards off the Atchafalaya River, Myette Point, Franklin, Louisiana and adjoining navigable waters of the United States.

The Coast Guard filed the complaint on March 24, 1999 at New Orleans, LA.

The Respondent is Parker & Parsley Petroleum USA, Inc., 303 W. Wall Street, Suite 101, Midland, Texas 79701.

The Coast Guard seeks a civil penalty of $100,000.

Dated: April 15, 1999.

George J. Jordan,

Director of Judicial Administration, Office of the Chief Administrative Law Judge, United States Coast Guard.

[FR Doc. 99–10112 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 23.1309–1C, Equipment, Systems, and Installations in Part 23 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 23.1309–1C, Equipment, Systems, and Installations in Part 23 Airplanes. AC 23.1309–1C provides information and guidance concerning an acceptable means, but not the only means of showing compliance with the requirements of § 23.1309(a) and (b) (Amendment 23–49) for equipment, systems, and installations in Title 14 Code of Federal Regulations (14 CFR) Part 23 airplanes.

DATES: AC 23.1309–1C was issued by the Manager, Small Airplane Directorate, Aircraft Certification Service, ACE–100, on March 12, 1999.

HOW TO OBTAIN COPIES: This AC is currently available on the internet at *http://www.faa.gov/avr/air/airhome.htm*.

Printed versions of this AC should be available within 60 days of the issue date and copies may be obtained by writing the U.S. Department of Transportation, Subsequent Distribution Office, SVC–121.23, Ardmore East Business Center, 3341, Q 75th Avenue, Landover, MD 20785, or by faxing your request to that office at 301–386–5394.

Issued in Kansas City, Missouri, on April 9, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10087 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 23.1311–1A, Installation of Electronic Displays in Part 23 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 23.1311–1A, Installation of Electronic Displays in Part 23 Airplanes. AC 23.1311–1A provides information and guidance concerning an acceptable means, but not the only means of showing compliance with the requirements of Title 14 of the Code of Federal Regulations (14 CFR) applicable to the installation of electronic displays in Part 23 airplanes.

DATES: AC 23.1311–1A was issued by the Manager, Small Airplane Directorate, Aircraft Certification Service, ACE–100, March 12, 1999.

HOW TO OBTAIN COPIES: This AC is currently available on the internet at *http://www.faa.gov/avr/air/airhome.htm*.

Printed versions of this AC should be available within 60 days of the issue date and copies may be obtained by writing the U.S. Department of Transportation, Subsequent Distribution Office, SVC–121.23, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, MD 20785, or by faxing your request to that office at 301–386–5394.

Issued in Kansas City, Missouri, on April 9, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10088 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (98–04–C–00–CRW) To Impose and Use a Passenger Facility Charge Revenue at Yeager Airport, Charleston WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: This correction revises information from the previously published notice.

In notice document 98–23630 beginning on page 46825 in the issue of Wednesday September 2, 1998, under Supplementary Information, last paragraph, the Class or classes of air carriers which the public agency has requested not be required to collect PFCs should read, ''Far Part 135 Charter Operators for hire to the General Public and unscheduled Part 121 Charter Operators for hire to the General Public''.

DATES: Comments must be received on or before May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Oz Turner, Manager, Airports Field Office, 176 Airport Circle, Rm. 101, Beaver, WV 25813–9350.

Issued in Jamaica, New York on April 12, 1999.

Thomas Felix,

Manager, Planning & Programming Branch, Airports Division, Eastern Region.

[FR Doc. 99–10049 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environment Impact Statement: SR 20, Fredonia to 1–5, Skagit County, WA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Cancellation of notice of intent, FR document 91–15994.

SUMMARY: The FHWA is issuing this notice to rescind the previous Notice of Intent issued on June 21, 1991, to prepare an environmental impact statement (EIS) for the proposed highway project in Skagit County, Washington.

FOR FURTHER INFORMATION CONTACT: Gene K. Fong, Federal Highway Administration, Evergreen Plaza Building, Suite 501, 711 South Capitol Way, Olympia, Washington, 98501–1284, Telephone: (360) 753–9413; Brian Ziegler, State Design Engineer, Washington State Department of Transportation, Transportation Administration Building, Olympia, Washington, 98204, Telephone: (360) 705–7231; or, John Okamoto, WSDOT Northwest Region Administrator, 15700 Dayton Avenue North, PO Box 330310, Seattle, Washington 98133–9710, Telephone: (206) 440–4691.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation (WSDOT), issued a Notice of Intent on June 21, 1991 to prepare an EIS on a proposal to improve or construct a 4-1/2 mile section of SR 20 from two lanes to four lanes. The Draft Environmental Impact Statement (DEIS) was originally circulated on May 30, 1995, and was followed by an EIS/Design Hearing on June 28, 1995. Since then, as the project elements have been refined, impacts have been more specifically identified, and public and agency comments have been evaluated, the FHWA and WSDOT have jointly decided that the project will not result in significant impacts to the environment and that an Environmental Assessment (EA) is the most appropriate environmental document under the National Environmental Policy Act (NEPA) rather than an EIS. The EA is available through the above contacts. Because a previous hearing was held for this project, another hearing is not planned for the current EA. However, any person with questions about the project or wishing to request a hearing may write to Bill James at 15700 Dayton Avenue North, MS 11, PO. Box 330310, Seattle, WA. 98133–9710, or call (206) 440–4139.

Authority: Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of federal programs and activities apply to this program.

Issued on: April 12, 1999.

Donald A Petersen,

Transportation and Environmental Engineer, Olympia, Washington.

[FR Doc. 99–10110 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Will, DuPage, and Cook Counties, IL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplement to a Final Environmental Impact Statement will be prepared for a proposed highway project in Cook, Will, and DuPage, Counties, Illinois.

FOR FURTHER INFORMATION CONTACT:

Jon-Paul Kohler, Environmental Engineer, Federal Highway Administration, 3250 Executive Park Drive, Springfield, Illinois 62703, Telephone: (217) 492–4988

Patrick Pechnick, Bureau Chief of Programming, Illinois Department of Transportation, 201 West Center Court, Schaumburg, Illinois 61096–1096, Telephone: (847) 705–4393

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Illinois Department of Transportation (IDOT), will prepare a Supplement to the Final Environmental Impact Statement (EIS) on a proposal for a new highway. The proposed highway facility would begin at the interchange of Interstate Routes 55 and 355 east of Bolingbrook, Illinois and extend southerly approximately 12 miles to Interstate Route 80 northwest of New Lenox, Illinois. The proposed highway generally follows the previously recorded centerline for the Lake-Will Freeway (FA Route 61) in Will, DuPage, and Cook Counties and is designated FAP Route 340. The original EIS for the proposed project (FHWA–IL–EIS–93–03–F/4(f)) was approved on February 21, 1996. The Record of Decision (ROD) was approved on April 15, 1996. The approved EIS and ROD indicate that the Illinois State Toll Highway Authority would construct and operate the new highway. The Supplement to the Final EIS will allow traffic projections to be updated to the current planning year horizon, 2020. No-Action Alternative land use forecasts will be modified based on revisions to the Year 2020 transportation network. Various transportation alternatives including No-Action, No-Action with Transportation System Management, Mass Transit, and Build Alternates will be reexamined with regards to the new traffic. The Build Alternates include Further Improvements to the Existing Highway Network, Expressway, and Freeway/Tollway Alternates. Coordination meetings, three public meetings, and a public hearing were conducted as part of the previous EIS. Coordination with Federal, State, regional, county, and local agencies, community organizations, private industry, and the public was performed. Additional coordination will include coordination meetings and a public hearing. No formal scoping meeting will be held. If new information indicates a need to define issues attendant to the proposed action, scoping activities will be conducted with specific resource agencies. To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Supplement to the Final EIS should be directed to FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: April 15, 1999.

Jon-Paul Kohler,

Environmental Engineer, Springfield, Illinois.

[FR Doc. 99–10056 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. FRA–1999–5103; Old Docket No. RST–93–3]

Burlington Northern and Santa Fe Railway Co.; Petition for an Extension and Modification of a Waiver of Compliance with Certain Provisions of 49 CFR 213.113(a)(2), Notes C and D

In accordance with 49 CFR 211.41, notice is hereby given that The Burlington Northern and Santa Fe Railway Company (BNSF) has petitioned the Federal Railroad Administration (FRA) under date of December 2, 1998, for extension and modification of a waiver of compliance with certain requirements of Title 49, Code of Federal Regulations, Part 213: Track Safety Standards. This proceeding

was previously identified with FRA Docket Number RST–93–3.

The present waiver was granted by FRA to BNSF in August 1990 to permit the use on certain BNSF tracks of a device known as a Bulldog Clamp®. The purpose of the device is to provide additional security between detection and removal of certain types of transverse defects internal to a rail head. The device achieves this purpose by functioning as a boltless track joint centered on a rail at the location of a flaw and being attached to the rail by two ''C'' clamps. It is claimed that avoidance of bolting the joint saves times, but more important, eliminates drilled bolt holes in the rail web which can serve later as sources of equally unwanted defects of a different type. FRA has granted extensions to that original waiver up to the present time.

BNSF specifically requests of the Federal Railroad Administration (FRA) that the subject waiver be extended for an indefinite period unless modified or revoked by FRA, that BNSF be relieved from monthly reporting as presently required in the terms of the waiver, and that the waiver be made applicable on additional tracks owned by BNSF beyond the ten line segments presently encompassed in the waiver.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should be identified with docket number FRA–1999–5103 and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 30 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Issued in Washington, DC on April 7, 1999.

Edward R. English,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 99–10047 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. FRA–1999–5102]

Petition for Waiver of Compliance With Certain Provisions of 49 CFR 213.233(c) Southeastern Pennsylvania Transportation Authority

In accordance with 49 CFR 211.41, notice is hereby given that the Southeastern Pennsylvania Transportation Authority (SEPTA) has petitioned the Federal Railroad Administration (FRA) under date of January 7, 1999, for a waiver of compliance with certain requirements of Title 49, Code of Federal Regulations, Part 213: TRACK SAFETY STANDARDS.

The purpose of the petition is to request of the Federal Railroad Administration (FRA) relief from compliance with the provisions of 49 CFR 213.233(c) of the Federal Track Safety Standards. The petitioner requests approval to reduce the frequency of visual track inspections required by this section for certain tracks which carry passenger traffic, specifically only those tracks that are constructed with continuous welded rail. Petitioner proposes to conduct one visual track inspection per week, instead of the two inspections per week presently required, and to supplement its visual inspections with the operation of an automated track geometry measuring vehicle over the affected main track and sidings four times per year. SEPTA has owned and operated such a measuring vehicle since 1990.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, the should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should be identified with docket number FRA–1999–5102 and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 30 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m. to 5:00 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, S.W. Washington, DC. All documents in the public docket at also available for inspection and copying on the internet at the docket facility Web site at *http://dms.dot.gov*.

Issued in Washington, DC on April 7, 1999.

Edward R. English,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 99–10046 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–05–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 17]

Railroad Safety Advisory Committee (''RSAC''); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) Working Group Activities.

SUMMARY: FRA is updating its announcement of RSAC's working group activities to reflect the current status of working group activities.

FOR FURTHER INFORMATION CONTACT: Vicky McCully, RSAC Coordinator, FRA, 400 7th Street, S.W. Washington, DC. 20590, (202) 493–6305 or Grady Cothen, Deputy Associate Administrator for Safety Standards Program Development, FRA, 400 7th Street, SW., Stop 25, Washington, D.C. 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: This notice serves to update FRA's last announcement of working group activities and status reports on December 29, 1998 (63 FR 71668). The tenth full Committee meeting was held January 28, 1999. The next meeting of the full Committee is scheduled for April 15, 1999, at the Wyndham Hotel in Washington, DC.

Since its first meeting in April of 1996, the RSAC has accepted fifteen tasks. Status for each of the tasks is provided below:

Task 96–1—Revising the Freight Power Brake Regulations. This Task was formally withdrawn from the RSAC on June 24, 1997. FRA published an NPRM on September 9, 1998, reflective of what FRA had learned through the collaborative process. Two public hearings were conducted and a technical conference was held. The date for submission of written comments was extended to March 1, 1999. FRA is preparing a final rule. Contact: Thomas Hermann (202)493–6036.

Task 96–2—Reviewing and recommending revisions to the Track Safety Standards (49 CFR part 213) . This task was accepted April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on July 3, 1997, (62 FR 36138). The final rule was published in the **Federal Register** on June 22, 1998 (63 FR 33991). The effective date of the rule is September 21, 1998. A task force was established to address Gage Restraint Measurement System (GRMS) technology applicability to the Track Safety Standards. An amendment to the final rule is being prepared for presentation to the RSAC. Contact: Al MacDowell (202)493–6236.

Task 96–3—Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR part 220). This Task was accepted on April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on June 26, 1997 (62 FR 34544). The final rule was published on September 4, 1998 (63 FR 47182) and becomes effective on January 2, 1999. Contact: Gene Cox (202)493–6319.

Task 96–4—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads. This Task was accepted on April 2, 1996, and a Working Group was established. The Working Group is monitoring the steam locomotive regulations task. Contact: Grady Cothen (202)493–6302.

Task 96–5—Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR part 230). This Task was assigned to the Tourist and Historic Working Group on July 24, 1996. Consensus was reached and an NPRM was published on September 25, 1998 (63 FR 51404). Written and oral comments have been reviewed and FRA is preparing the final rule. Contact: George Scerbo (202)493–493–6349.

Task 96–6—Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR part 240). This Task was accepted on October 31, 1996, and a Working Group was established. Consensus was reached and an NPRM was published on September 22, 1998. The Working Group met to resolve issues presented in public comments. At the January 28, 1999, meeting, the RSAC recommended issuance of a final rule with the Working Group modifications. FRA is preparing the final rule. Contact: John Conklin (202)493–6318.

Task 96–7—Developing On-Track Equipment Safety Standards. This task was assigned to the existing Track Standards Working Group on October 31, 1996, and a Task Force was established. The Task Force is finalizing a proposed rule to present to the RSAC for consideration. Contact: Al MacDowell (202)493–6236.

Task 96–8—This Planning Task evaluated the need for action responsive to recommendations contained in a report to Congress entitled, Locomotive Crashworthiness & Working Conditions. This Planning Task was accepted on October 31, 1996. A Planning Group was formed and reviewed the report, grouping issues into categories.

Task 97–1—Developing crashworthiness specifications to promote the integrity of the locomotive cab in accidents resulting from collisions. This Task was accepted on June 24, 1997. A Task Force on engineering issues was established by the Working Group on Locomotive Crashworthiness to review collision history and design options and additional research was commissioned. The Working Group is finalizing recommended standards for future locomotives to present to the RSAC for consideration. Contact: Sean Mehrvazi (202) 493–6237.

Task 97–2—Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. This Task was accepted June 24, 1997. The Working Group on Cab Working Conditions is drafting a standard for locomotive sanitary conditions. Task forces on noise and temperature were formed to identify and address issues. The Noise Task Force is drafting recommendations for hearing conservation program requirements. Contact: Brenda Hattery (202)493–6326.

Task 97–3—Developing event recorder data survivability standards. This Task was accepted on June 24, 1997. An Event Recorder Working Group and Task Force have been established and are actively meeting. A draft proposed rule is being reviewed. Contact: Edward English (202)493–6321.

Task 97–4 and *Task 97–5*—Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Task 97–6—Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems. These three tasks were accepted on September 30, 1997, and assigned to a single Working Group. A Data and Implementation Task Force, formed to address issues such as assessment of costs and benefits and technical readiness, is finalizing a report on the future of PTC systems. The report will be incorporated into a Report to the Congress. The Standards Task Force, formed to develop PTC standards, is developing draft recommendations for presentation to the RSAC. Contact: Grady Cothen (202)493–6302.

Task 97–7—Determining damages qualifying an event as a reportable train accident. This Task was accepted on September 30, 1997. A working group was formed to address this task and conducted their initial meeting February 8, 1999. Contact: Robert Finkelstein (202)493–6280.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC, on April 15, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety.

[FR Doc. 99–10048 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–99–5141 (Notice No. 99–5)]

Notice of Information Collection Approval

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Information Collection Approval.

SUMMARY: This notice announces OMB approval of information collection requests (ICRs), for OMB No. 2137–0018, entitled Inspection and Testing of Protable Tanks and Intermediate Bulk Containers; OMB No. 2137–0022, entitled Testing, Inspection and Marking Requirements for Cylinders; OMB No. 2137–0039, entitled Hazardous Materials Incident Reports; OMB No. 2137–0542, entitled Flammable Cryogenic Liquids; OMB No. 2137–0557, entitled approvals for Hazardous Materials; OMB No. 2137–0572, entitled Testing Requirements for Non-Bulk Packaging (formerly entitled Testing Requirements for Packaging); OMB No. 2137–0582, entitled Container Certification Statement; OMB No. 2137–0586, entitled Hazardous Materials Public Sector Training and Planning Grants; OMB No. 2137–0591, entitled Response Plans for Shipments of Oil. These information collections have been extended until March 31, 2002.

DATES: The expiration date for these ICRs is March 31, 2002.

ADDRESSES: Requests for a copy of an information collection should be directed to Deborah Bothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Office of Management and Budget (OMB) regulations (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(s)) and specify that no person is required to respond to an information collection unless it displays a valid OMB control number. In accordance with the Paperwork Reduction Act of 1995, RSPA has received OMB approval of the following ICRs.

Title: Inspection and Testing of Portable tanks and Intermediate Bulk Containers.
OMB Control Number: 2137–0018.
*Title:*Testing, Inspection and Market Requirements for Cylinders.
OMB Control Number: 2137–0022.
Title: Hazardous Material Incident Reports.
OMB Control Number: 2137–0039.
Title: Flammable Cryogenic Liquids.
OMB Control Number: 2137–0542.
Title: Approvals for Hazardous Materials.
OMB Control Number: 2137–0557.
Title: Testing Requirements for Non-Bulk Packaging (Formerly entitled Testing Requirements for Packaging).
OMB Control Number: 2137–0572.
Title: Container Certification Statement.
OMB Control Number: 2137–0582.
Title: Hazardous Materials Public Sector Training Planning Grants.
OMB Control Number: 2137–0586.
Title: Response Plans for Shipments of Oil.
OMB Control Number: 2137–0591.

These information collection approvals expire on March 31, 2002.

Issued in Washington, DC of April 15, 1999.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

[FR Doc. 99–10083 Filed 4–21–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Department Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and time for the next meeting and the provisional agenda for consideration by the Committee.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, May 7, 1999 at approximately 9:00 a.m. in Memphis, Tennessee. The meeting will be held at The Peabody Hotel at 149 Union Avenue. Phone: (901) 529–4000. Fax: (901) 529–36000.

The duration of the meeting will be roughly three to and a half hours.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. Tel: (202) 622–0220. Final meeting details, including the meeting time and final agenda, can be confirmed by contacting the above number one week prior to the meeting date.

SUPPLEMENTARY INFORMATION: At the May 7, 1999 session, the regular quarterly meeting of the Advisory Committee, the Committee is expected to focus on Customs automation and also user fee and budget issues as they affect Customs automation capabilities. Time permitting, the Committee may also discuss: (1) The results of FY 1998 trade compliance measurement as well as the methodology for Compliance Assessment Team (CAT) review and/or (2) the possible establishment of a subcommittee to consider the adequacy of staffing for the Office of Regulations and Rulings. The agenda may be modified prior to the meeting.

Members

The Secretary of the Treasury has appointed the following private sector members to the Committee for the current two-year term:

Christine Berghofer, KPMG Peat Marwick
Shirley Boyd, Cargill, Inc.
Graham S. Cassano, Xerox Corporation
Leslie K. B. Cazas, Nissan North America, Inc.
James Clawson, JBC International
James J. Cook, Sara Lee Knit Products, Inc.
Fermin Cuza, Mattel, Inc.
Alfred R. De Angelus, De Angelus & Associates
Kenneth Glenn, Federal Express Corporation
Daniel B. Hastings, Jr., Daniel B. Hasting, Inc.
Kathy Hansen, CNF Services Company
Philip W. Hastings, UPS Customhouse Brokerage, Inc.
Frank X. Kelley, Liz Claiborne, Inc.
Jerrol Larrieu, Management Information Systems
Joan M. Paddock, Staples, Inc.
Richard J. Salamone, BASF Corporation
Gilbert Lee Sandler, Sandler, Travis & Rosenberg, P.A.
Janet Y. Sangster, Chrysler Corporation
David Serko, Serko & Cimon
Joseph Strain, Jacksonville Port Authority

The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members and Customs and Treasury Department staff. A person other than an Advisory Committee member who wishes to attend the meeting, should give advance notice by contacting Theresa Manning at (202) 622–0220, no later than April 30, 1999.

Dated: April 16, 1999.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement)

[FR Doc. 99–10061 Filed 4–21–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending March 31, 1999.

Last name	First name	Middle name
GETTEL	HILKEA	GETTEL.
APPLE	GEORGE	LOUIS.
BACA	MICHEL	MARLO.
BAJUMI-JORDON	RITA	R.
BATCHELOR	TIMOTHY	JAMES.
BEAUBIEN, M ATTRICK	NANON	BOWLES DE GASPE.
BOGDANOVICH, JR.	JOSEPH	JAMES.
BUATTERFIELD-WATTS	KATHERINE	DARREL.
BURNS-CLOUGH	FRANCES	
BURNSIDE	DAVID	ANDREW.
BUSER	NAKAO	
CALDERWOOD	CHRISTOPHER	JOHN-ROBERTSON.
CATE	VINCENT	ARON.
CAYETANO	ALALN	PETER S.
CHENG	EDGAR	WAI KIN.
CHOI	KWANG	JOO.
CHRISTIAN	IRMGARD	MARIA.
COLLEY	WINIFRED	MARY.
COONEY	ROBERT	JOHN.
COSTA-SORIANO	ROCIO	MARTINEZ.
COTTLE, NEE MACDONALD	BARBARA	JO.
CURLEY	PAUL	CHRISTOPHER.
D'AMICO	KEMBERLY	
DALY	JOHN	VINCIENT.
DILTS	THOMAS	EDWARD.
DUNNICLIFF	CHRISTOPHER	JOHN.
DUNNICLIFF	MARY	IRENE.
EGGLESTON	WILLIAM	WALTER.
ELVENSTAR-MURPHY	LIV	KAREN.
EVANS-MOORE	DOROTHY	
EVERS	JOCHEN	
FIRMIN-BULLOUGH	IAN	GRAHAM.
FOREMAN-WILLIAMS-JONES	EVELYN	ROSETTA.
FOY	JOHN	EDWARD.
GETTY	TARA	GABRIEL.
GILDELATORRE	YOSHIKO	
GODAY	MARK	ANDREW.
GOLDSTEIN	SMADAR	NAVON.
HAAKONSEN	HAAKON	OLAV.
HANES	SANDRA	ANDREA.
HANSEN, NEE MCMARTIN	GERLADINE	KEY.
HENLEY	DAVID	CHALMERS.
HENLEY-NEE PAGENKOPF	CAROLINE	LOUISE.
HERMANNS	BONITA	CARROL.
HODGES	CHRISTOPHER	ROBERT.
HSIEH	CHING	HUEF.
JELLINEK	JOSEPH	STDPHAN.
JUNG	EDWARD	GYOUNGTBAE.
KAMMERER	YVONNE	URSULA.
KAO	HENRY	DO-PING.
KELLY	ANDREW	JORDON.
KNAPP	MICHAEL	SCOTT.
KRAUSE	CLIFFORD	A.
KUBAJAK	MARK	ALAN.
KWAK	UNG	OK.
LEE	JOHNNYF	CHUNHI.
LEE	JULIANA	KYUNG.
LEIGHTON	FREDERIKF	
LIAO	SUEY-FEN	
LOO	LI-YEN	
LYONS-NEE TSAVOUSSIS	KALOTINA	
MADIRAZZA	MAYA	
MAHANTY	BRIGITTA	

Last name	First name	Middle name
MAHANTY	KANJIT	KESHARI.
MARSH	WILLIAM	ROY.
MCALLISTER	ERIK	JOHN, RICHARD.
MILANICH	MELANIE	MARIE.
MILLER	MICHAEL	SCOTT.
MITTELMARK	MAURICE	BARRY.
NEE ABRAHAMSEN	ANNELISE	ROHMANN.
NEWTON-LEIDING	EMILIE	
NIAMI	MARK	
OLDE	ERNEST	JACOB.
OLSON	JOHN	GORDON.
OXENDINE	ANNEROSE	
PARKER	CARMEN	MONIQUE.
PARKER-ROBERTS	MELVILLE	
QUILLEN	RAMON	JOSE.
RAUSCH	CLYDE	ALBERT.
REESER	MARIA	OKCHA.
RENNER-KRUSKA	THERESE	
ROMMESWINKEL	DIRK	HEINRICH.
RUSSELL JR.	AMILEY	LEON.
RYU	JEROME	
SCHMIDT	FREDI	WILLY.
SCHWAB	DIANA	
SEIGELE	DONNA	JEAN.
SEIPPEL	ALEXANDER	HENRY.
SHERRILL	IN	CHA.
SHIELDS, JR.	JAMES	CHARLES.
SILVA III	CHARLES	FRANCIS.
SKJONSFJELL	MARGARET	
SMITH	JULIA	ANN.
SODERBERG	WENDY	MINER.
SONG	STEVE	SANGHO.
SPIES	BARIGITTA	TAMARA.
SPIES	RUDOLF	
STEPHENS	RASHIDA	
STOLT-NIELSEN III	JACOB	
STRASSE	KAREN	ELOISE.
STRAUSS	WALTER	FREDERICK.
SULLIVAN	ROBERT	WILLIAM.
SUZUKI	SUMI	
TATUM	GENE	CHRISTOPHER.
THIEL	JESSE	MICHAEL.
THOMSEN	ERIK	MARTIN.
THORNTON	NINETTE	JULIA.
THORP	RICHARD	GRAHAM.
TSAND	JOHN	CHUN WAH.
UM	IN	JA.
VAN KAN	MARGARET	HAYS.
VAN MUEHLEN	CONSTANTIN	OLVIER.
VAN RIBBENTROP	PATRICK	MAXIMILIAN-HENKEL.
VEA	PEGGY	
VOEGELE	KAREN	LOUISE.
WALKER	ROBERT	RANDOLPH.
WANG	HAE	SOOK.
WARNER	MARK	DOUGLAS.
WEBSTER	DONALD	LINTON.
WEBSTER	ROSE	MARIE.
WHITEHEAD-WRIGHT	RAYMOND	GRENVILLE.
WILLIAMS JR.	JAMES	MATTHEW.
WILLIAMSON	RAYMOND	JORGE-USEBIO.
WINGFIELD	NICHOLAS BRINSMADE	WINGFIELD.
WOOD	ELFRIEDE	
WRIGHT	MARGARET	BRENDA.
ZERAFA	MICHELLE	CARMEN.
ZIMMER	ERIC	RUDOLF.

Approved: April 14, 1999.

Doug Rogers,

Chief, Special Projects & Support Branch, International District.

[FR Doc. 99–10022 Filed 4–21–99; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 64, No. 77

Thursday, April 22, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Kiyoyuki Yasutomi

Correction

In notice document 99–8540, appearing on page 16899, in the issue of Wednesday, April 7, 1999, make the following correction:

On page 16899, in the second column, in the eighth line, ''1 Maitocho'' should read ''1 Naitocho''.

[FR Doc. C9–8540 Filed 4-21-99; 8:45 am]

BILLING CODE 1505–01–D

Reader Aids

Federal Register

Vol. 64, No. 77

Thursday, April 22, 1999

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FEDERAL REGISTER PAGES AND DATES, APRIL

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LABOR DEPARTMENT

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 1376/P.L. 106–21

To extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes. (Apr. 19, 1999; 113 Stat. 34)

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